PART 9

RESPONSE TO MAJORITY REPORT

INTRODUCTION

The Senate Resolution establishing the Special Investigation into the 1996 elections stated that the Committee on Governmental Affairs was to examine allegations of impropriety and illegality by both political parties. Despite the language of the Resolution, the investigation was conducted in a highly partisan fashion: The hearings focused almost entirely on allegations relating to Democrats, while largely ignoring allegations relating to Republicans. It is thus not surprising that the Majority Report on the investigation is a highly partisan document. The partisan bias is manifested in many ways, including questionable interpretations of the evidence, the use of double standards when discussing similar conduct by Democrats and Republicans, and even outright misstatements of the facts and the law.

This part of the Minority Report provides an introduction to the Minority's critique of the Majority's Report. In pointing out the rather egregious errors, omissions, misstatements, and unsupported allegations in the Majority Report, we do not mean to suggest that we are defending the system used by both the Democratic and Republican parties to raise campaign funds in 1996. It is one thing to defend against a false allegation that a fundraising practice is illegal. It is another to say that the practice should continue to be legal. That distinction is clear in the Minority Report.

Much of the evidence presented to the Committee was open to widely varying interpretations. When the evidence is unclear, it is unfair for the Committee to pretend otherwise by hurling accusations either directly or by innuendo that may result in unfairly damaging the reputations of innocent people. This Committee had an unfortunate history in the early 1950's in this regard, and it would be shameful to repeat it.

Unfortunately, the Majority has repeatedly chosen to interpret facts in such a way that Democrats are portrayed in the most unfavorable light while Republicans are given the benefit of the doubt. A case in point is the contrast between the Majority's treatment of Harold Ickes, former Deputy Chief of Staff in the Clinton White House, and its treatment of Haley Barbour, the former chairman of the Republican National Committee. The Majority refuses to accept Ickes's denial of accusations made against him by Warren Meddoff despite the lack of any supporting evidence for these accusations and despite numerous facts which undermine Meddoff's credibility. By contrast, the Majority accepts Barbour's testimony about the National Policy Forum's loan transaction even though it conflicts with testimony from several credible sources and a great deal of documentary evidence.

This double standard in the treatment of witnesses is also evident in the Majority's chapter on the White House coffees. That chapter contains a lengthy discussion of the allegation by Karl Jackson that a solicitation was made at a coffee he attended. Jackson had been a White House aide during the Bush Administration and later went into business with former Vice President Dan Quayle (the latter fact is omitted from the Majority Report). Jackson's GOP ties have utterly no bearing on his credibility, in the Majority's view, and yet the Democratic ties of witnesses who contradict him are given overwhelming importance. Moreover, the Majority includes a

completely baseless insinuation that the Democratic witnesses misled the Committee, by stating that they "claim" not to have recalled the alleged solicitation.

The Majority Report also applies a double standard to the two political parties when the parties have engaged in similar conduct. While Democratic examples are highlighted, comparable Republican examples are downplayed or simply ignored. Thus, for example, the Majority criticizes the Democratic National Committee's coordination with the Clinton White House, ignoring similar coordination by the Republican National Committee with the Dole for President campaign and former Republican Presidential campaigns. Similarly, in the discussion of the use of access to elected officials as a fundraising tool, the Majority strongly criticizes the White House coffees organized by the Democratic National Committee ("DNC"), while ignoring egregious practices on the Republican side, such as charging specific prices for access to Republican officials.

Partisan bias is evident throughout the Majority's chapter on Ted Sioeng, which either minimizes -- or simply omits -- Sioeng's Republican connections. For example, the Sioeng chapter mentions $100,000 in contributions to California State Treasurer Matt Fong but fails to mention that Fong is a Republican. The chapter also notes that political contributions afforded Sioeng access to President Clinton and Vice President Gore, but fails to mention that Newt Gingrich, the Republican Speaker of the House, was the guest of honor at a Sioeng-organized luncheon the day after a Sioeng family company gave $50,000 to a Republican think tank. Nor does the chapter mention that the donation was solicited by a top adviser to Speaker Gingrich and that the think tank was, according to the Internal Revenue Service, essentially an arm of the Republican National Committee.

The Majority Report not only contains dubious interpretations of the facts, it often misstates the facts. The Majority also misstates the facts by supplying partial evidence. For example, in the Majority's Charlie Trie chapter, the Majority states that Xiping Wang testified that the DNC did not reimburse her for her contribution, implying that the contribution was not returned by the DNC. Actually, the DNC did return the contribution -- to the United States Treasury, as was appropriate for a contribution that had been made by a conduit who was not legally entitled to the money. Similarly, in the Majority Report's chapter on DNC/White House coordination, there are citations to the testimony of former DNC Chairman Donald Fowler to support conclusions regarding the knowledge and activities of DNC officials Marvin Rosen and Richard Sullivan without any reference to Rosen's and Sullivan's own testimony on these subjects.

The misleading character of the Majority's factual assertions is also illustrated by internal contradictions within the Majority Report itself. Evidence used to support one claim is often used to support a contradictory assertion in another chapter -- sometimes even in the same chapter. Similar inconsistencies are apparent in the Majority's treatment of witnesses who are deemed credible when they support the Majority's position but are deemed not credible when they dispute the Majority's conclusions. Thus, throughout the Majority's chapter on John Huang at the DNC, the testimony of Richard Sullivan is cited and relied upon as an honest recitation of the practices

and beliefs of all DNC employees during the 1996 election cycle. Yet, in the Majority's chapter on the Teamsters, the Majority discredits Sullivan's testimony. Similar inconsistencies are apparent in the Majority's treatment of Donald Fowler, whose testimony is credited and relied upon with respect to his disagreements with Ickes, but deemed dishonest in the Majority's Tamraz chapter.

The mishandling of evidence is one of the most disturbing aspects of the Majority Report. Again and again, evidence that undermines or contradicts the Majority's theories and allegations is downplayed, mischaracterized, or more often ignored, while disproved allegations are perpetuated. For example, a great deal of evidence gathered by the Committee undermines the theory that John Huang engaged in espionage when he was employed at the Commerce Department. This exculpatory evidence is largely absent from the Majority Report. As noted in Chapter 4 of the Minority Report, Huang failed on many occasions to exploit his post to obtain classified information. Moreover, he offered to testify to the Committee under a grant of immunity that would not have shielded him from prosecution for espionage-related offenses; his offer was not mentioned in the Majority Report. In the Minority's view, the most neutral interpretation of the facts is that Huang was probably not engaged in espionage. The Majority Report also repeats the baseless suggestion that the President was involved in a criminal conspiracy with a consultant to the International Brotherhood of Teamsters, in spite of the fact that Chairman Thompson admitted at a hearing that the Committee now had evidence that disproved such an allegation.

Similarly, the Majority's chapter on Johnny Chung includes his allegation (made in unsworn statements to journalists) that a $50,000 contribution he made to the DNC had been solicited by Margaret Williams, then Chief of Staff to First Lady Hillary Clinton. The Majority Report fails to mention that Williams denied this allegation, under oath, when she was deposed by this Committee, and when she testified before a House committee. And the Majority ignores a host of other witnesses whose testimony before that committee supported Williams's testimony. By publishing the allegation and not the denial, the Majority creates the false impression that the allegation is not only unchallenged, but unquestionably true.

Because of the Majority's questionable use of evidence, sourcing is an extremely important issue. Every assertion that might be in dispute should be attributed to a source, such as testimony to the Committee or a document produced in response to a Committee subpoena. In a number of cases, dubious assertions in the Majority Report are not footnoted. In some other cases, the footnotes show that questionable sources were used, such as staff interviews at which the Minority staff was not present.

The most important task of the Special Investigation was to probe allegations of improper or illegal activity, and, thus, a clear understanding of the campaign finance laws is fundamental. It is thus surprising to find that the Majority Report contains many allegations of illegality based on misstatements of the law. A few examples will suffice:

O The Majority's chapter on Clinton White House coordination with the DNC alleges that

this coordination was illegal and yet fails to cite a single statute, court decision, or regulation to support its position in this chapter. As demonstrated in the Minority Report, coordination of an issue advocacy advertising campaign between a party and its candidates does not appear to violate provisions of the existing campaign finance laws.

O Allegations in the Sioeng chapter are based on a misstatement of the law governing foreign contributions. Contributing "foreign money" is not illegal so long as the donor is legally entitled to give and is not acting as a conduit for someone else. In Sioeng's case, the issue was not whether he used funds from foreign bank accounts, but whether he directed or participated in contribution decisions (which would have been illegal given his status as a foreign national). On the basis of its misstatement of the law, the Majority analyzes the $100,000 in Sioeng-related money contributed to Matt Fong and concludes that most of these funds were donated legally, because only $16,000 could be traced to foreign sources. In fact, Fong's deposition testimony to this Committee -- which is not mentioned in the Majority Report -- strongly indicates that Sioeng was the donor. If Sioeng was the donor, the entire $100,000 was contributed illegally, regardless of whether domestic or foreign funds were used.

A major shortcoming of the Majority Report is its failure to acknowledge the fact that some of the most scandalous conduct in federal elections is perfectly legal. The campaign finance laws are so riddled with loopholes that legal restrictions are largely meaningless. Because of the soft-money and issue-advocacy loopholes, large corporations and wealthy individuals are free to spend vast sums of money on behalf of specific candidates. In both the hearings and in the Majority Report, the Majority has given short shrift to these systemic problems.

One of the most disturbing aspects of the Majority Report is that it suggests, on the basis of inconclusive evidence, that certain named individuals were spies or foreign agents. These serious charges are supported solely by weak circumstantial evidence and speculation -- as acknowledged by the Majority's use of phrases like "may" and "if true." Allegations of espionage are grave charges and should not be made without specific credible evidence. Such serious allegations can inflict irreparable damage to the reputations of innocent people, and to do so without having sufficient evidence is irresponsible.

The remainder of this Response consists of detailed comments on the Majority Report. It is organized both thematically and on a chapter-by-chapter basis.

RESPONSE TO ISSUES INVESTIGATED BY THE COMMITTEE

FOREIGN INFLUENCE

The Majority Report addresses the issues of foreign influence and foreign money in the 1996 election by focusing almost exclusively on the alleged role of the Chinese government. The report includes a declassified chapter describing efforts by the Chinese government to influence the U.S. government. The Majority Report also includes a chapter on Indonesian-born businessman Ted Sieong, four chapters on John Huang, and one on Maria Hsia. Taken together, these chapters are designed to suggest that the so-called China Plan involved efforts to influence the 1996 presidential election and that by using Sioeng, Huang, and Hsia as intermediaries, the Chinese government succeeded in infiltrating the Democratic Party's fundraising operations.

The Majority's analysis of foreign influence is deeply flawed. It weaves together conspiracy theories by taking unrelated facts and occurrences and giving them the most sinister possible interpretation. The Majority also uses facts in a highly selective manner. For example, classified information that contradicts the Majority's theories is simply disregarded.

Moreover, the Majority fails to acknowledge foreign money that flowed to Republicans. As discussed in Minority Chapter 3, the Republican National Committee received hundreds of thousands of dollars from a Hong Kong businessman who provided backing for a loan to an RNC affiliate. The Minority also found strong indications that businessman Michael Kojima, who gave a half-million dollars to the RNC, acted as a conduit for Japanese businessmen (see Minority Chapter 6). The Majority Report makes no mention at all of Representative Jay Kim, a California Republican, who pleaded guilty to violating the campaign finance laws because he had accepted illegal foreign contributions (see Minority Chapter 8).

INDEPENDENT GROUPS

The 1996 campaign saw a surge in activity by organizations which are not registered with the Federal Election Commission as political committees. These groups were typically nonprofit organizations, registered with the Internal Revenue Service as tax-exempt, social-welfare organizations. These supposedly "nonpartisan" groups spent tens of millions of dollars on behalf of candidates and political parties. Many of them ran political attack ads -- under the guise of "issue advocacy" -- during the closing weeks of the campaign, and some of the ads appear to have determined the outcome of close races. Despite the importance of this phenomenon, the Majority failed to conduct a serious investigation of these groups.

In its Report, the Majority asserts that it was impossible to form "meaningful conclusions" about nonprofit groups because of obstruction by several organizations that were served with Committee subpoenas. While the Majority cited the AFL-CIO as the prime example of obstruction, several conservative groups also failed to comply with Committee subpoenas, including the Christian Coalition, Americans for Tax Reform, the National Policy Forum, and two tax-exempt organizations controlled by Triad Management Services.

The Majority's assertion that it could form no meaningful conclusions about such groups is questionable on several grounds. First, such an obstacle did not stop the Majority from forming conclusions about other investigatory targets who failed to cooperate, including Democratic fundraisers John Huang and Charlie Trie. Second, as far as the nonprofit groups are concerned, the Committee obtained a great deal of information about conservative groups in spite of those groups' lack of cooperation -- sufficient information to conclude that several such groups engaged in improper and likely illegal activity during the 1996 cycle. See Minority Chapter 3 on the National Policy Forum and Minority Chapters 10 through 13 and Chapter 15 on other nonprofit groups.

The activity by these and other organizations in the 1996 election cycle sounded only a warning note of what is to come. As several experts testified in the Committee's hearings on proposals for campaign finance reform, the use of nonprofit and other independent organizations to air "issue advertising" that is simply disguised advertising on behalf of candidates will only continue to grow. Given an opportunity for a watershed examination of the direction that the election system is heading, the Majority chose not to address any of the substantial wrongdoing by these groups and actively prevented the Minority from presenting hearings on the evidence it had developed.

CONTRIBUTION LAUNDERING/THIRD-PARTY TRANSFERS

The federal election laws require that contributors donate their own funds. Thus, it is illegal for a donor to channel funds through a conduit, for an individual to act as a conduit, and for a donor to be reimbursed by a third party after having made a donation. The laws help to ensure that the public knows who is really paying for elections and also discourage contributions from individuals who are not legally entitled to donate, such as foreign nationals who do not have permanent resident status.

The Majority Report addresses several cases in which there were allegations that political contributions were made in the names of third parties during the 1996 election cycle. These included contributions made in the names of Yogesh Gandhi, Hsi Lai Temple monastics, and Yue F. Chu and Xiping Wang.

Although these Democratic examples are discussed at length, the Majority Report ignores several Republican examples, including some cases where laundering schemes have been acknowledged by the donors or proven in court. Several Republican examples involving Simon Fireman (a national Vice Chair of the Dole campaign), officers and employees of Empire Landfill, and DeLuca Liquor and Wine are mentioned in Chapter 22 of the Minority Report.

The Majority Report also fails to discuss third-party contributions as a systemic problem that could perhaps be addressed through legislative reform, regulatory reform, or improved vetting of contributions by political parties and candidates.

FUNDRAISING AND POLITICAL ACTIVITIES OF THE NATIONAL PARTIES AND ADMINISTRATIONS

Although the national political parties play a central role in the federal election process, the Majority Report does not contain a detailed, balanced discussion of the two parties. Instead, it is largely a diatribe against the Democratic National Committee. Using evidence in a highly dubious manner, it examines coordination of election activities among the White House, the Democratic National Committee ("DNC"), and the Clinton Campaign (Chapter 2), the DNC's system to check the legality and appropriateness of contributions, fundraising in the White House, fundraising phone calls made from the White House, the vetting of individuals with access to the President, DNC donor Johnny Chung, and DNC donor Roger Tamraz.

A fundamental problem with many of these chapters is that they characterize certain activities as illegal without citing any legal authorities for this position. In fact, many of the practices -- notably coordination between the White House and the DNC -- appear to be acceptable under the current campaign finance laws.

Moreover, the Majority Report states and implies that many activities were unique to the Democrats. As shown in the Minority Report, the Republican National Committee similarly coordinated with the Dole for President campaign. See Minority Chapter 33. The Minority Report also discusses how Republicans have used access to public officials as a fundraising tool and have used federal property for fundraising purposes (see Minority Chapter 28). Regarding the vetting issue, the Minority Report notes that in the 1992 and 1994 election cycles the Republican National Committee took the position that it had no legal duty to review contributions (see Minority Chapter 25). The Minority Report also presents evidence that a number of controversial individuals met with Republican Presidents at the White House and at other events (see Minority Chapters 6 and 31). Finally, the Minority Report contains detailed discussions of the Republican Party's close coordination with -- and financial support to -- several supposedly "independent" and "nonpartisan" nonprofit groups (see Minority Chapters 10 and 11).

ALLEGATIONS OF QUID PRO QUO

A major goal of our campaign finance laws is to curb corruption and the appearance of corruption, as the Supreme Court recognized in Buckley v. Valeo. When political campaigns are financed with private money, there is always a risk of quid pro quos. Examples of alleged quid pro quos to Democratic contributors are discussed in Majority chapters regarding the DNC and Indian Gaming, the Hudson Casino, and the Cheyenne-Arapaho contributions.

It is seldom easy to prove a quid pro quo, and inquiries into alleged quid pro quos tend to rely heavily on circumstantial evidence. Nonetheless, the extent to which the Majority Report reaches its conclusions by marrying innuendo to coincidence is startling. In its chapter detailing the DNC's efforts to raise money from the Indian gaming community, the Majority candidly acknowledges that, except for two instances -- the Hudson casino matter and the Cheyenne Arapaho matter -- it was unable to investigate whether "there was any connection between the

financial support to the Democratic party and the Interior decisions . . ." Nevertheless, the Majority goes on to imply that numerous contributions received from Indian tribes involved in gaming were all given in expectation of specific government actions and that these expectations were fulfilled. The factual bases for these conspiratorial suspicions, by the Majority's own admission, amount to nothing more than "troubling coincidences." Indeed, this chapter is so insubstantial that it resembles nothing so much as an outline created at the beginning of an investigation rather than a final product purchased at a cost of well over $3 million in taxpayer money.

One chapter of the Majority Report deals with Interior Secretary Bruce Babbitt's supposed involvement in the decision to deny an application to take land into trust for a gambling casino in Hudson, Wisconsin -- a community which strongly opposed such a use. That community opposition -- a crucial factor in Interior's decision -- is scarcely mentioned in the Majority report, along with the fact that the tribes who sought to locate the casino in Hudson lived on reservations located 80 to 190 miles away. Even more disturbing is the Majority's insistence on interpreting evidence and documents in ways that are uniformly contradicted by the sworn testimony of the career Interior employees and officials involved. The Majority not only fails to resolve these contradictions, it does not even mention the great weight of testimony that contradicts the Majority's interpretation of events.

Finally, in its chapter on political contributions made by the Cheyenne-Arapaho Tribes, the Majority reaches the condescending conclusion that these tribes' expressions of political support, including contributions, for the Democratic Party were the result of their naivete and political gullibility at the hands of manipulative Democratic fundraisers. In spinning this tale, the Majority Report studiously ignores the ample evidence that these tribes were sophisticated, politically aware, and made a hard-headed calculation that the Democratic Party would likely assist them in prevailing over Republican politicians who, in siding with powerful oil and gas interests, consistently obstructed the tribes' efforts to regain lands that they considered to be rightfully theirs.

The Minority Report's chapters on the Hudson Casino and the Cheyenne-Arapaho Tribes demonstrate that the evidence does not support the quid pro quo allegations contained in the Majority Report (see Minority Chapters 35 and 37). The Minority Report also discusses the Republican Party's ties to one of its biggest sources of funds: the tobacco industry (see Minority Chapter 36).

PROCESS

The Majority Report covers the origins and procedures of the Committee's investigation into the 1996 election by focusing almost exclusively on document production by the White House and the Democratic National Committee, which are the subjects of two separate chapters. A third chapter of the Majority Report discusses the compliance of nonprofit groups that were

subpoenaed by the Committee. Although the Majority castigates all entities that did not comply with subpoenas, the most pointed criticism is directed at the AFL-CIO. There is no particular overarching theme that ties these chapters together, except for a general refrain that Democratic individuals, entities, organizations, and sympathizers tried to thwart the Committee's investigation.

While the Majority discusses the history and debate over Senate Resolution 39, which clearly stipulated that the Special Investigation was to be conducted on a bipartisan basis, the Majority spends the bulk of its chapter on procedural issues lamenting the deadlines imposed unanimously by the full Senate as the reason the Committee was not able to pursue enforcement of its subpoenas. Moreover, while the Majority's chapter on compliance by nonprofit groups does mention some of the Republican entities that failed to comply with subpoenas, it fails to discuss the Republican National Committee, the Dole campaign, the National Policy Forum, Americans for Tax Reform, and Triad, all of which were among the first entities subpoenaed by the Committee and all of which failed to comply fully with subpoenas. Several individuals associated with conservative groups failed to appear for depositions; others appeared but refused to answer any substantive questions. The Majority does not even mention that the Republican National Committee -- alone among the dozens of entities subpoenaed -- unilaterally redacted as much as one third of all the documents it produced.

The massive obstruction of the Committee's investigation should never have been tolerated; indeed, the damage done to this body's investigative authority as a result of that failure may be the longest standing legacy of this investigation. Obstruction of the Committee began, however, not with the AFL-CIO, as the Majority has often asserted, but in July when the National Policy Forum willfully refused to obey an order issued by the Chairman to produce documents pursuant to subpoena. No effort was made to hold the National Policy Forum in contempt of the Senate, and on September 3, eight groups, including the Christian Coalition and the National Right to Life Committee, notified the Committee that they would not produce documents. On September 8, Triad Management and its affiliated organizations notified the Committee that its employees, officers, and directors who were under personal subpoenas to appear and answer questions would refuse to do so. While Ranking Minority Member Glenn repeatedly expressed a willingness to support a finding of contempt against all entities not in compliance with Committee subpoenas, no motion for contempt was ever brought before the Committee by the Chairman.

A detailed response to each Majority chapter follows.

Majority Report Chapter 2: Procedural Background and Overview

The Majority Report lays out a procedural chronology and an overview of the investigation. The Majority also presents its view of the conduct of the investigation and the impact the Majority believes the deadline had on the investigation as a whole. Finally, the Majority summarizes the issues addressed in testimony the Committee received in public hearings and issues addressed in its Report.

While addressing the procedural history of the Committee's investigation, the Majority seizes yet another opportunity to highlight its version of "Democratic obstruction" including harsh criticism of the White House and DNC for what the Majority calls "poor" productions. In addition, the Majority claims the Committee's deadline for ending the investigation -- unanimously agreed upon by the full Senate -- precluded procedural enforcement proceedings regarding Committee subpoenas.

O **The Majority Report states that one of the main purposes of the investigation was to let the public "know what went on during the 1996 campaign," when, in fact, the Majority only investigated what happened in Democratic fundraising circles during that time.** The Majority neglects to mention that the Minority requested only six of the 32 days of public hearing time to present evidence of Republican fundraising transgressions and was granted only three. Had the Minority been allowed the additional three days it repeatedly requested, the American people would have received a fuller picture of "what went on during the 1996 campaign."

O **While the Majority Report complains numerous times about the deadline imposed on the investigation, it fails to mention statements by Democrats that consideration of reauthorization of the budget of the Committee would be appropriate if the investigation had not been completed by the end date, December 31, 1996.** Every Member of the Committee -- Republican and Democrat -- voted for S.Res.39, the Resolution authorizing the investigation, which included the deadline.[1] Committee Democrats also stated publicly that they would have voted for enforcement of all of our subpoenas and orders, including those against Democrats, if enforcement was sought regarding all Committee subpoenas.[2] However, such motions were never brought to a Committee vote.

O **The Majority Report claims that the decision not to enforce the Committee's subpoenas was at least partially based on a dearth of resources.** While the Minority respects the Majority's wish not to waste taxpayer monies, nearly $1 million of the original $4.35 million authorized by the Senate remained at the end of the investigation.

O **The Majority Report claims that "Committee staff...conducted over 200 witness interviews" yet fails to mention that at least 20 of these interviews were conducted unilaterally by the Majority.** Some of these unilateral interviews were with witnesses who later testified at Committee hearings and some witness affidavits were received that were never shared with the Minority.[3]

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[1] Congressional Record vote No. 29, pp. S2124-2125. The vote was 99-0.

[2] Senator Glenn, 10/8/97, hrg., pp. 73-74.

[3] See Appendix of Unilateral Interviews Conducted by the Majority.

Response to Majority Chapter 4: "The Thirst for Money"

In this chapter, the Majority places blame for all problematic contributions received by the DNC on an insatiable "thirst for money" emanating from the White House. The ability to raise funds, however, is clearly an essential factor in any election campaign. During the 1996 elections, a Democratic President was running for re-election confronted by a Republican Party that had outraised and outspent the Democratic Party in all recent election cycles. Consequently, the Majority's conclusion that the Democratic Party felt pressure to raise funds for the 1996 election is a statement of the obvious. In reaching its conclusion, the Majority alleges violations of law without providing supporting facts or legal citations, ignores the costs of federal elections, and ignores the fact that the Republican Party again out-raised and out-spent the Democratic Party in 1996.

O The Majority asserts that the DNC and the Clinton campaign violated campaign laws in their coordinated effort to raise money, but provides no facts or legal citations to support such a conclusion.

O The premise of this chapter -- that the need to raise advertising money caused the "panoply of DNC fundraising irregularities" -- rests on a single incorrect statement. The Majority claims that "[d]ue to the DNC's need to feed the advertising beast [that was planned following the November 1994 Democratic losses in Congressional elections], it dismantled its process for vetting contributions." In fact, the DNC's system for checking contributions was changed in May of 1994, five months before the November 1994 elections and over a year before the idea for a large scale DNC advertising campaign was first conceived.

O The Majority focuses entirely on fundraising by the Democratic Party, and fails to mention that the Republican Party also broke all previous records in 1996, raising almost $100 million more than Democrats. The Majority ignores the fact that in the 1996 election cycle, the RNC out-raised (and out-spent) the DNC by nearly $100 million, with the RNC raising $306 million and the DNC raising $212 million.[4]

O The Majority ignores the across-the-board explosion of money raised in the 1996 election. The Majority also ignores the fact that in 1996, the national parties together raised and spent almost 900 million dollars, a 43 percent increase over the 1992 presidential election cycle.[5] The Majority's characterization of the Democratic Party as having a "thirst for money," fails to take into account that in the 20 years since the campaign finance laws took effect, total hard money raised by

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[4] Federal Election Commission press release FEC Reports Major Increase in party fundraising, 3/17/97, available at www.fec.gov.

[5] Federal Election Commission press release FEC Reports Major Increase in Party Fundraising, 3/17/97, available at www.fec.gov.

both parties has jumped from $110 million to $658 million.[6]

Response to Majority Report Chapter 5: "Coordination Among the White House, DNC and Clinton Campaign"

In this chapter, the Majority purports to present a detailed chronology of coordination among the White House, the Democratic National Committee ("DNC"), and the Clinton campaign during the 1996 elections and concludes that this coordination was illegal. The Majority, however, fails to provide legal support for this conclusion. The Majority also makes no reference to a virtually identical advertising campaign coordinated between the RNC and the Dole campaign.

O The Majority incorrectly claims that coordination between the White House, DNC, and the Clinton campaign organization violated the law. Despite the unsupported conclusions drawn by the Majority, federal statutes, regulations, and legal precedent establish that coordination between a political party and the party's candidates and campaigns is legal, appropriate, and expected.[7] For example, the Majority spends several pages on the sharing of polling information between the party and the campaign when FEC regulations specifically permit the allocation of the costs of polling after a poll is conducted, and multiple campaigns and organizations routinely share the costs of polling.[8] The FEC has also issued an opinion that parties may create and air issue advertisements that do not count as spending on behalf of particular candidates if the advertisements "focus on national legislative activity and promote the . . . party," and that advertisements that name particular federal candidates may still qualify as issue advertisements.[9]

O The Majority asserts that coordination between White House staff and both the Clinton campaign and the DNC was "unprecedented," when, in fact, similar coordination occurred in previous Republican administrations. President Clinton's former Deputy Chief of Staff Harold Ickes testified at length about the roles played by White House staff in both re-election campaigns and party affairs during both the Bush and Reagan Administrations.[10] Ickes noted that in 1992, President Bush appointed James Baker as White House chief of staff and also charged him with running the Bush-Quayle re-election effort.[11] Bush campaign manager Fred Malek said at the time, "[Baker] knows how to run a campaign, and he knows how to run a White House, and I think he'll

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[6] Federal Election Commission press release FEC Reports Major Increase in Party Fundraising, 3/17/97, available at www.fec.gov.

[7] For a detailed legal analysis see Chapters 24 and 32 of the Minority Report.

[8] 11 CFR section 106.4.

[9] FEC Advisory Opinion 1995-25.

[10] Harold Ickes Opening Statement, Hrg. 10/7/97.

[11] See Minority Chapter 32; Harold Ickes, 10/7/97 Hrg., pp. 86-90.

bring the two together in a very good fashion."[12] Outgoing White House Chief of Staff Samuel Skinner said, "Jim is the logical choice to be chief of staff if he's also going to be the national campaign manager."[13] Baker held twice daily campaign meetings in his White House office. Baker did the same in 1988, serving as White House chief of staff while running then Vice President Bush's campaign for the presidency.

O The Majority mistakenly asserts that political consultants involved in the DNC advertising campaign were given insufficient legal guidance. DNC General Counsel Joseph Sandler and Clinton-Gore counsel Lyn Utrecht not only personally approved every advertising script and sat in on meetings to draft advertising, they also provided detailed guidelines to consultants working on the advertising. The guidelines ensured that the advertising did not contain express advocacy, required that advertising relate to important legislative issues, and required that the advertising express the view of the Administration and the Democratic Party. The guidelines also set restrictions on the timing of advertisements, precluded advertising during the general election, and forbade advertising in a state within six weeks of a primary, and set restrictions on use of the likeness or image of Republican candidates.[14] Campaign consultant Dick Morris complained that the lawyers were "obsessively" concerned with following the law: [T]hey would bend over backward in ways that I considered ridiculous to comply with what would have been [an] overly conservative interpretation of the law.[15]

O The Majority fails to note that the RNC conducted a virtually indistinguishable ad campaign that had the intended effect of promoting the Presidential campaign of former-Senator Bob Dole, and was closely coordinated with Dole campaign officials and consultants. See Minority Report Chapter 33.

Response to Majority Report Chapter 6: "The DNC Dismantled Its System for Vetting Contributions"

In this chapter, the Majority attempts to paint a picture of a DNC which consciously disregarded the law. The Majority asserts that the DNC's vetting system was fatally flawed because "the fundraisers did not understand that they were to be the first line of defense against illegal contributions" and because there was a conflict of interest for fundraisers due to the fact that

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[12] Christian Science Monitor, 8/19/92.

[13] Chicago Sun-Times, 8/18/92.

[14] Richard Morris deposition, 8/20/97, pp. 143-44. The guidelines established by counsel were presumably directed at ensuring that the advertising did not contain an electioneering message, a currently undefined standard.

[15] Richard Morris deposition, 8/20/97, p. 410.

"fundraisers want to raise money, not reject it." The Majority, however, ignores contrary evidence before the Committee.

O The Majority falsely implies that the DNC completely abandoned its system for vetting contributions. Although the DNC did stop conducting LEXIS/NEXIS searches on contributors to determine their "appropriateness," the DNC continued to successfully vet the vast majority of contributions to determine their legality.

O The Majority Report unfairly concludes that "no one thought to restore the vetting process, as that might slow or limit the money flowing to the DNC." The Majority cites no testimony or documentary evidence to support this conclusion which implies that the DNC purposely dismantled its vetting system to allow receipt of illegal contributions. In fact, the conclusion ignores testimony that the DNC general counsel's office consistently vetted for legality and that contributions were, in fact, not accepted by the DNC.[16]

Response to Majority Report Chapter 7: "DNC Fundraising in the White House: Coffees, Overnights and Other Events"

In this chapter, the Majority is harshly critical of the Democratic National Committee for organizing "coffees" at the White House and other events for supporters of the President. The coffees are characterized as fundraising events, and the Majority repeats the allegation by one coffee attendee that funds were solicited at one of the coffees. The Majority also criticizes the DNC and White House for inviting some campaign contributors to stay overnight at the White House.

The Majority's treatment of these subjects is seriously flawed. For one thing, it fosters the false impression that these practices were unprecedented. The Majority condemns the coffees and overnights without ever saying these practices were illegal. Nor does it allege that they were improper because they involved providing access to contributors or the use of federal property for fundraising purposes. If the Majority had made that point, it might have been forced to condemn the Republican National Committee and a series of Republican candidates on the same grounds.

O The Majority Report incorrectly concludes that because "almost one-third" of those who attended White House coffees contributed within a month, the coffees were fundraisers. Although this statistic is used to make the case that the coffees were fundraising events, a more logical inference is that they were not fundraisers. After all, more than two-thirds of the attendees contributed nothing to the DNC within a month of the coffee. In addition, the Majority fails to mention that several coffee attendees contributed nothing to the DNC during the entire 1996 election

[16] Joseph E. Sandler deposition, 5/15/97, pp. 75-76; Joseph E. Sandler deposition, 5/30/97, pp. 130-132.

cycle.[17]

O The Majority condemns the coffees and overnights and implies that these practices were unprecedented when, in fact, they were not. The Majority fails to mention that donors were frequently invited to the Reagan White House and Bush White House to motivate them to contribute to the Republican National Committee and Republican campaigns. These events are discussed in more detail in Chapter 28 of the Minority Report.

O The Majority fails to mention that of the over 1,000 people who attended coffees at the White House, Karl Jackson stands alone in his accusation of a solicitation at a coffee.

O The Majority unfairly asserts that Karl Jackson's Republican ties have no bearing on his credibility while asserting that the Democratic ties of witnesses who contradict him make those witnesses less credible. The Majority barely mentions that Karl Jackson --- the only coffee attendee to claim that he was solicited --- is a Republican with strong ties to the Bush White House and business ties to former Vice President Dan Quayle. From 1991 to early 1993, Jackson served as Quayle's National Security Advisor and he currently is connected with Quayle in private business.[18] The Majority credits the testimony of this one former Bush Administration official but explains away the contradictory testimony of other attendees with ties to the Democratic Party. The Majority states that these individuals "claimed not to recall hearing Huang solicit DNC contributions" because "their memory may be influenced by their strong affiliations with the DNC, the White House, or both." The Majority's statement that the witnesses who contradict Jackson "claimed not to recall" Huang's solicitation mischaracterizes their testimony. In fact, all the witnesses listed above testified that they were not solicited at this or any other coffee.

Response to Majority Report Chapter 8: "Fundraising Calls from the White House"

The Majority concludes that the Vice President violated the law by making fundraising phone calls to raise money for the DNC's issue advocacy campaign in 1995. The Majority asserts that the Vice President violated the Pendleton Act, an 1883 law that prohibits certain solicitation on federal property, because he made calls from his office in the White House complex and because the DNC deposited a portion of the funds he solicited into hard money accounts.

O The Majority incorrectly asserts that the Vice President violated the Pendleton Act which prohibits solicitation of contributions within the meaning of the Federal Election Campaign Act ("FECA") on federal property, and condemns the failure to appoint an

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[17] Exhibit 2049M: Minority-created chart detailing the finding that a number of attendees at a November 9, 1995 coffee never contributed to the DNC during the 1996 election cycle.

[18] See Los Angeles Times, 10/10/94; Financial Times, 9/6/93; Business Times, 6/28/94.

independent counsel on this basis.[19] The Pendleton Act was enacted in 1883 to protect federal workers from coerced campaign contributions. The government has not prosecuted a case under the act since 1954 and have never prosecuted a case in a situation, like that of the Vice President's, where fundraising calls were placed to a non-federal employee outside the workplace.[20] After a thorough examination of the facts surrounding these calls and the applicable law, the Attorney General issued a lengthy opinion finding that there was insufficient evidence that the Vice President had violated the Pendleton Act.[21] The Majority's contrary conclusion -- based on less information -- and virtually no analysis of the applicable law is unpersuasive.

O **Even though the Pendleton Act does not apply to the solicitation of soft money, the Majority nonetheless attempts to argue that the Vice President's solicitation of soft money violated the Act.** It is undisputed that in 1995, the Vice President made calls to contributors asking for donations of soft money for the DNC's issue advocacy campaign. Under the Federal Election Campaign Act, contributions of soft money are not considered "contributions" as defined under FECA and therefore the Pendleton Act does not apply to the solicitation of such contributions. The Majority claims, however, that soft money contributions should now be considered "contributions" under the Federal Election Campaign Act. However, the law is clear that the term "contribution" as defined by 2 U.S.C. § 431(8)(A)(i) is exactly equivalent to "hard money," money raised and spent pursuant to the requirements and restrictions of federal law.

O **The Majority asserts that the Vice President actually solicited hard money contributions, despite the evidence to the contrary.** The Majority relies on an FEC regulation that states that if a federal "campaign" is mentioned in a solicitation, it is presumed that the solicited funds will be used for federal election purposes through "hard money," unless the presumption is rebutted.[22] In the case of the Vice President, this presumption is easily rebutted by the facts gathered by the Committee. The Committee interviewed 45 individuals who likely received phone calls from the Vice President. Of those, none "state[d] that the Vice President explicitly or implicitly asked them to give money to the DNC's federal account [hard money] or to any federal political campaign."[23] In fact, most of those interviewed stated that if any specific purpose of the money was mentioned at all, it was the DNC's soft money issue advocacy campaign. Furthermore, the evidence establishes, and the Majority acknowledges, that during the phone calls, the Vice President solicited amounts of funds that could only be soft money because they exceeded the limit on the amount any individual

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[19] The Pendleton Act, 18 U.S.C. § 607.

[20] Washington Post, 10/2/97.

[21] See In Re Albert Gore Jr., Notification to the Court Pursuant to 28 U.S.C. § 592(b) of Results of Preliminary Investigation, Dec. 2, 1997.

[22] 11 C.F.R. § 102.5(a)(3).

[23] FBI Interviews

may contribute in hard dollars.

O The Majority unfairly insists that, even if the Vice President did not solicit hard money, he may have known that a portion of some contributions he solicited would be deposited by the DNC into its hard money contribution account. It is established that the DNC at times deposited the first $20,000 of contributions received from a variety of contributors into hard money accounts without notifying or receiving permission from the contributors. The Majority alleges that the Vice President may have known about this practice because one DNC memorandum that was attached to another memorandum and forwarded to his office stated generally that contributors are permitted to give their first $20,000 in contributions in hard money. There is no evidence, however, that the Vice President personally reviewed this memorandum or that he would have any reason to know of this practice at the DNC.[24] The Attorney General also concluded in determining not to appoint an independent counsel that the Vice President did not have independent detailed knowledge regarding how the DNC processed and deposited contributions.[25]

O The Majority generally asserts that the Vice President violated the law by soliciting contributions from his White House Office. The Majority fails to note that the Hatch Act specifically exempts both the President and the Vice President, as well as Members of Congress, from the general prohibition on solicitation of campaign contributions[26] and that former and current Republican presidents and leaders have also solicited funds from federal property. The Majority also ignores the facts that at least one Republican President, Ronald Reagan, made solicitation phone calls from the White House and that other Republicans have acknowledged that they have raised funds from federal property. See Chapter 28 of this Minority Report.

Response to Majority Report Chapter 9: "White House Vetting of Individuals with Access to the President"

In this chapter the Majority addresses the alleged failure of the White House to appropriately screen visitors invited to attend events at the White House with the President and Vice President from 1993 to 1997. Although the Majority makes a number of valid observations, its inclination to engage in unfounded speculation and to ignore evidence of similar procedures in Republican administrations undercuts its credibility on this issue.

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[24] In an interview with the Attorney General, the Vice President stated that he did not recall seeing a memo that stated the DNC would treat the first $20,000 of any contribution as hard money. See In Re Albert Gore Jr., Notification to the Court Pursuant to 28 U.S.C. § 592(b) of Results of Preliminary Investigation, Dec. 2, 1997.

[25] See In Re Albert Gore Jr., Notification to the Court Pursuant to 28 U.S.C. § 592(b) of Results of Preliminary Investigation, Dec. 2, 1997.

[26] 5 U.S.C. § 7323.

O Without presenting any evidence, the Majority Report speculates that the problems with the White House vetting procedures from 1993 to 1997 might have been a "conscious design for fundraising purposes." There is no evidence to support this speculative assertion, and the Majority does not cite any such evidence.

O The Majority ignores evidence obtained by the Committee establishing that the procedures for screening political functions at the White House have been in effect for several administrations. A career White House employee testified that during her 18-year tenure at the White House, the procedures for screening political guests were the same.[27] The National Security Advisor similarly testified that NSC procedures for providing information as part of the screening process have been in place since the 1970s.[28]

O The Majority ignores that the system in place for years has also resulted in a variety of individuals with controversial backgrounds meeting with Republican Presidents. Although the Committee's investigation of Republican vetting was limited due to the Committee's focus on the Democratic Party, it did uncover several examples where individuals with controversial backgrounds were provided access to President Bush. See Minority Report Chapter 28.

O The Majority omits the fact that both the White House and the DNC have implemented policies to formalize and improve their procedures for assessing potential guests at most DNC events.[29]

Response to Majority Report Chapter 10: "Johnny Chung and the White House Subway"

In this chapter, the Majority alleges that Chung's status as a DNC donor afforded him extraordinary access to the White House, including "access to the President and the First Lady" and to "the First Lady's office." The chapter devotes considerable space to a $50,000 contribution to the DNC which Chung gave to Margaret Williams, then-Chief of Staff to the First Lady. The Majority alleges that the $50,000 contribution was solicited by Williams and that Chung was provided with access to the White House as an explicit quid pro quo for this contribution.

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[27] Judith Spangler deposition, 5/9/97, pp. 39-40.

[28] Samuel R. Berger, 9/11/97 Hrg., p. 6.

[29] Exhibit 1073: New DNC Compliance Procedures and Fundraising Manual; Exhibit 1072: Memorandum from Erskine Bowles to All Executive Office of the President Staff, 1/21/97; Exhibit 1071: Memorandum from Samuel R. Berger to all National Security Council staff, 6/13/97.

O The Majority Report refers repeatedly to Chung's access to "the White House," misleadingly implying that he had frequent access to the executive mansion. The Majority Report fails to distinguish between the White House itself -- the executive mansion -- and the "White House Complex," a term that includes the White House and some nearby buildings, including the Old Executive Office Building ("OEOB"). The vast majority of Chung's visits were to the OEOB;[30] he frequently dropped in on Margaret Williams or her assistant, Evan Ryan.[31]

O The Majority Report incorrectly implies that Chung had frequent access President and Mrs. Clinton. The evidence before the Committee shows that Chung only met the Clintons on a handful of occasions, usually at Democratic fundraising events where he was one of a large number of attendees. The references to his visits to "the First Lady's office" are misleading because he actually visited the office of Margaret Williams, the First Lady's Chief of Staff, in the Old Executive Office Building.[32]

O The Majority alleges that Margaret Williams solicited a $50,000 contribution from Chung. The Majority's discussion of the $50,000 contribution is based largely on unsworn allegations to journalists by Johnny Chung and it ignores a great deal of contradictory evidence in the form of testimony to the Committee by Margaret Williams and Evan Ryan. The Majority also ignores Williams's testimony on the same subject to the House Government Reform and Oversight Committee (even though evidence presented to that Committee has been used elsewhere in the Majority Report). For example, the Majority Report ignores Williams's denial that she solicited the $50,000 contribution from Chung and her testimony that she initially rebuffed him when he tried to hand her the check.[33] Ultimately, according to her testimony, she decided to treat the check the same way she had treated unsolicited checks that had arrived in the mail: She simply forwarded it to the DNC.[34] By ignoring these and other important parts of Williams's testimony, the Majority has created a distorted impression of what the Committee learned about Johnny Chung.

O The Majority alleges that Williams provided Chung with access to the White House as an explicit quid pro quo for a $50,000 contribution. Regarding the alleged quid pro quo for the

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[30] For example, Secret Service "WAVE" records, which record visits by individuals who do not hold White House passes, show that Chung visited the White House complex 30 times in 1995 and that most of those visits were to Williams's office in the OEOB.

[31] Margaret Williams's and Evan Ryan's offices were located in Room 100 of the Old Executive Office Building.

[32] Evan Ryan deposition, 8/7/97, pp. 11-12: The suite of offices in the OEOB where Williams and Ryan worked does not contain an office for the First Lady.

[33] Margaret Williams deposition, 5/29/97, p. 184.

[34] Margaret Williams deposition, 5/29/97, pp. 184-86.

$50,000 contribution, the Majority relies again, on unsworn statements to journalists by Johnny Chung and ignores contradictory evidence, including testimony to this Committee by Margaret Williams and Evan Ryan. According to their testimony, neither of them suggested to Chung that his requests would be expedited if he contributed to the DNC. By ignoring this evidence, the Majority has elevated press accounts over actual evidence received by the Committee.

Response to Majority Report Chapter 11: "The Contribution of Yogesh Gandhi"

In this chapter, the Majority concludes that Yogesh Gandhi was able to use a $325,000 contribution to gain access to the President for Gandhi's own purposes. It concludes that the contribution both originated from foreign funds and was laundered through Gandhi. The Majority suggests that DNC officials had concerns about the contribution at the time it was received and concludes that DNC General Counsel Joseph Sandler and the DNC willfully postponed returning the contribution until after the election.

The Minority agrees that this contribution should have been handled more carefully, but disagrees with the Majority's presentation of the facts.

O Despite evidence to the contrary, the Majority asserts that the presentation of the Gandhi award to Clinton was arranged well in advance of the DNC event. The evidence obtained by the Committee indicates that the presentation of the award to Clinton was not arranged in advance, but was handled at the event.[35] Gandhi told Committee staff that he did not mention the award to anyone until the event, and that he did not meet John Huang until the event.[36]

O The Majority incorrectly claims that evidence indicates that the DNC purposefully delayed return of the Gandhi contribution until after the election. Sandler testified that the date of the 1996 election was not a factor in the decision to return the Gandhi contribution.[37] He returned the contribution approximately two weeks after press allegations first surfaced raising questions about Gandhi's solvency.[38]

O The Majority unfairly insists that there was concern over the Gandhi contribution inside the DNC at the time it was received. The Committee developed no evidence suggesting anyone at the DNC was initially concerned about the Gandhi contribution. DNC Finance Director Richard Sullivan actually testified that "John [Huang] showed me the $325,000 contribution from Gandhi, from Yogesh Gandhi, and I believe he stated he was holding on to it until he could vet it with

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[35] Joseph Sandler deposition, 5/15/97, pp. 105-14. Joseph Sandler, 9/10/97 Hrg,, p. 100.

[36] Staff Interview of Yogesh Gandhi, 3/26/97.

[37] Joseph Sandler deposition, 5/15/97, p. 116.

[38] Joseph Sandler deposition, 5/15/97, pp. 116-18.

Joe." Although Sullivan testified that Huang later told him he had spoken to Sandler about the contribution, Sandler testified that Huang did not bring the contribution to him for review and that he would have remembered if Huang had done so.[39] Sullivan similarly testified that Huang represented that at least one other contribution had been reviewed, while Sandler testified Huang never brought it to him.[40]

Response to Majority Report Chapter 12: "Ted Sioeng"

In this chapter, the Majority examines political contributions by Ted Sioeng, his family, and related business interests in the United States. Sioeng is a wealthy Indonesian-born businessman with extensive business interests in China. The recipients of his contributions included the DNC, the RNC's National Policy Forum, and Matt Fong, a Republican currently serving as California State Treasurer. Although the Majority acknowledges that it cannot establish any connection between these Sioeng-related contributions and the Chinese government, the Majority's principal conclusion is that approximately half of the $400,000 contributed by Sioeng-related interests to the DNC consisted of "foreign money."

The Majority's analysis is misleading and incomplete as to the central question of whether any of these contributions violated federal campaign laws. Existing law does not prohibit using "foreign money" to fund federal political contributions by individuals so long as those contributions are, in fact, made by persons legally eligible to contribute (i.e., U.S. citizens or legal permanent residents) with their own funds.[41] Much of the Majority's analysis of the bank records underlying the contributions at issue completely ignores this critical issue.

O The Majority report ignores Jessica Elnitiarta's contribution to the National Policy Forum ("NPF"). The Minority Report raises troubling questions about the actual source of the funds donated to the NPF, a de facto subsidiary of the Republican National Committee. The day before Sioeng's daughter, Jessica Elnitiarta, donated $50,000 to the NPF, the Panda Industries account which funded the contribution had a balance of only $1,300.[42] That same day, Ted Sioeng wrote a check for $50,000 from his personal account into the account of Panda Industries.[43] These transfers raise the fair inference that Sioeng both directed and was the real source of the NPF

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[39] Richard Sullivan deposition, 6/5/97, pp. 37-39; Joseph Sandler, 9/10/97 Hrg., p. 13.

[40] Joseph Sandler, 9/10/97 Hrg., p. 13.

[41] See Minority Report Chapters 1 and 20.

[42] Memorandum from Steven E. Hendershot, FBI detailee, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.

[43] Memorandum from Steven E. Hendershot, FBI detailee, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97.

donation. In examining this same transaction, the Majority overlooks the evidence that Sioeng, a nonresident alien, probably directed the NPF contribution and, instead, merely concludes that, based on the evidence available to the Committee, it is impossible to determine whether Sioeng's reimbursement of his daughter's contribution came from foreign monies. This does not, however, remove the principal concern raised by this contribution: that Sioeng may have directed the contribution of $50,000 to the NPF.

The Majority also ignores that Elnitiarta's contribution to the NPF was solicited by Steve Kinney, an aide to Speaker Gingrich, and was collected by Kinney the day before Sioeng sat next to Speaker Gingrich at a Beverly Hills event in 1996.[44] These facts raise the strong inference that Sioeng's seating next to the Speaker was a reward for his daughter's contribution to NPF, but are ignored by the Majority.

O The Majority ignores the crucial legal questions regarding Sioeng-related contributions because it focuses solely on identifying possible "foreign money" sources of those political contributions. As noted above, a U.S. citizen or legal permanent resident, such as Sioeng's daughter and his associates, can make contributions funded entirely by "foreign money" so long as the money belongs to the donor and the donor of record is actually the person making the contribution decision, not simply acting as a conduit for others.[45] The issue of whether part of the monies contributed to Fong comes from overseas is not nearly as significant as the fact that Fong actively solicited a $100,000 contribution from Sioeng, a person ineligible to donate, personally received a check for $30,000 from him, and failed to ascertain whether Sioeng was eligible to contribute. Fong then unpersuasively testified that he thought that Sioeng was making a contribution on behalf of one of his sons -- which would still be illegal as a contribution in the name of another.[46] Indeed, the Majority Report contains no reference whatsoever to the deposition testimony which Fong provided to the Committee.

O Without sufficient evidence, the Majority characterizes a $50,000 contribution to the DNC from Kent La, a business associate of Sioeng's, as Sioeng-related. The Majority suggests that Sioeng may have directed this contribution; it bases this on La's characterization of Jessica Elnitiarta (in a telephone interview) as his "supervisor."[47] This is an extremely slender reed upon

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[44] Memorandum from Steven E. Hendershot, FBI agent, to Senate Investigating Team re: China Press newspaper article of 7/22/95", 7/23/97; Memorandum from Steven E. Hendershot, FBI detailee, to Minority Counsel, re: "Jessica Elnitiarta Record Review," 8/22/97; Staff interview with Jessica Elnitiarta, 6/19/97; Los Angeles Times, 7/4/97.

[45] See Minority Report Chapters 1 and 20.

[46] Minority Report Chapter 7: Ted Sioeng,

[47] The factual support for the Majority's contention that La described Elnitiarta as his "supervisor" is exceedingly unclear. The Majority's characterization of La's statements is not

which to ascribe La's contribution to Ted Sioeng. The Majority failed to mention another Committee interview in which La's wife described the contribution at issue: "La advised that after she and her husband learned from Jessica [Elnitiarta] that Ted Sioeng had made a big donation to the President, La's husband decided to do the same. La advised that another reason they gave money to President Clinton was because the President supported trade increases with China and granted favorite nation status to China. La advised that no one forced or coerced them into donating the money."[48]

The Majority also notes that it sought to depose La, but was unable to get the Minority's approval for the issuance of the subpoena. The resulting unstated inference -- that the Minority's failure to approve the proposed subpoena was motivated by a desire to obstruct the Committee's investigation -- is unfair and inaccurate. What the Majority Report failed to explain was that a subpoena to La had already been issued with the Minority's approval, but that the Majority came to discover it had issued an invalid subpoena which mistakenly named La's cousin, Vinh B. La.[49] When the Majority proposed to re-issue corrected subpoenas for both Kent La and Vinh B. La, the Minority sought equivalent technical corrections of subpoenas that had been issued to RNC officials. When the Majority made it clear that it was unwilling to extend the Minority the courtesy of reciprocal technical corrections on subpoenas already issued, the Minority declined to approve the requested subpoenas for Kent La and Vinh B. La.[50] The Majority had the authority to vote to issue the

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supported by the only report of a telephone interview with La that is known to the Minority. On May 13, 1997 FBI detailee Steven E. Hendershot contacted Kent La and, because La's English was "not very good," conducted an interview in Chinese. Memorandum from Steven E. Hendershot to Senate Investigative Team re: Contact with Kent La, 5/14/97. During that interview, La offered no characterization of his business relationship with Elnitiarta. Id. There are no records of any additional FBI interviews of La and it is unlikely, given La's lack of English fluency, that members of the Majority staff could have conducted such an interview.

[48] Memorandum from FBI detailee Vo Duong Tran to Senate Investigative Team re: Interview of Nancy La, 5/25/97.

[49] Letter from Laura S. Shores, counsel to Kent La, to Majority Counsel, re: Kent La, 11/6/97.

[50] The text of Senator Glenn's 11/19/97 letter to Chairman Thompson on this matter is as follows:

> Pursuant to the Rules of the Governmental Affairs Committee, I am writing to object to the Majority's proposed issuance of two subpoenas -- a corrected subpoena for Vinh B. La and a new subpoena for Kent La. I do so reluctantly because I have no interest in impeding the legitimate course of the investigation. I am compelled to object, however, because precisely the same requests by the minority for subpoenas to correct alleged technical defects have been ignored and effectively denied. For example, The Committee issued deposition subpoenas for Curt Anderson and Jill Hanson that asked for

requested subpoenas over the Minority's objections, but did not do so.[51]

O The Majority's unwillingness to explore Sioeng's dealings with Republican candidates contrasts starkly with its willingness to use bank records to tie Sioeng to Chinese government officials. In one notable instance, the Majority appears to have overreached considerably in suggesting that a $10,000 check made out to the "O.C. Chinese Friendship Ass." in 1995 "may have been intended for an organization called the Overseas Friendship Association" which the Majority Report describes as an instrument of the Chinese Communist Party. From the Minority's perspective, a more reasonable interpretation (at least one that takes into account the "C" following the "O") is that Sioeng donated this $10,000 to a slightly more benign organization: the Orange County ("O.C.") Chinese Friendship Association.

Response to Majority Report Chapter 13: "Huang's Years at Lippo"

In this chapter, the Majority suggests that the Lippo Group's shifting focus from Indonesia to the emerging markets of the People's Republic of China over the last five years indicates that the Lippo Group has a suspicious relationship with the Chinese Government. The Majority also claims that John Huang engaged in a pattern of illegal political contributions on behalf of the Lippo Group.

The Majority provides scant evidence for its conclusions, however, and ignores much evidence to the contrary.

O Based on scant evidence, the Majority asserts that Lippo Group joint venture partner China Resources is a corporate agent of espionage for the government of China. The only evidence developed by the Committee indicates that the Lippo Group has a business relationship with China Resources, a major conglomerate owned by the Chinese government that acts as a licensed

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depositions on dates that had already passed by the time that service was effected. The Minority has twice unsuccessfully sought to have these technical defects corrected by new subpoenas. On another occasion, we detailed for the Majority how Martin Weinstein, counsel for several RNC officials, misled the Committee about his representation of Tim Barnes and caused the Committee to serve a deposition subpoena on Mr. Weinstein rather than his actual counsel, Mr. Burchfield. Our request that a corrected subpoena be served on Mr. Barnes was ignored.

The Minority has asked your staff to correct these subpoenas at the same time that your requested subpoenas are issued, but have received no response. Under these circumstances, I am compelled to object to the issuance of the Majority's proposed subpoenas to Vinh B. La and Kent La.

[51] Memorandum from Majority Counsel Michael Bopp to Chief Minority Counsel Alan Baron re: Notice of Deposition Subpoenas, 11/14/97.

intermediary for outside businesses doing business in China.[52] The Majority fails to mention, for example, that according to a 1992 estimate, China Resources has 29 wholly owned subsidiaries and "hundreds" of joint ventures, including ventures with U.S. corporations.[53] While there have been allegations that China Resources engages in intelligence gathering on behalf of the Chinese Government, no evidence has been developed that suggests that the Lippo Group has ever acted as agent of China Resources or provided any intelligence information to the Chinese Government.[54]

O The Majority asserts that an audiotape of a DNC event attended by the Vice President indicates that Huang may have arranged a White House meeting between Vice President Gore and the vice chairman of China Resources, Shen Jueren. The Majority alleges that Huang may have arranged three "meetings" between Shen Jueren and the Vice President --- a "meeting" in the White House on Friday, September 24, 1993; a "meeting" at a California law firm in the afternoon of Monday, September 27, 1993; and a "meeting" at a DNC event in California later that same Monday. There is scant evidence, however, to support these alleged "meetings." The meeting on Friday was a short visit with the Vice President's Chief of Staff, not the Vice President;[55] and the meeting on Monday in the afternoon was with approximately 25 Asian Americans and Shen Jueren was not listed as an attendee.[56] Finally, the meeting on Friday evening was in fact a DNC

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[52] Thomas Hampson, 7/15/97 Hrg. pp. 67-68.

[53] Xinhua wire service, 11/10/92. On 2/7/96, the Harris Corporation, an NYSE-listed company, issued a press release announcing that it had been awarded a $2.7 million contract to supply radio terminals to a Northwest Electric Power Group, an electric company in the PRC. The press release states that China Resources National Corporation, a branch of China Resources Group, represented Northwest Electric Power. The press release described China Resources National Corporation as "an import/export company that acts as a licensed intermediary for outside companies doing business in China." A 6/26/85 press release of the Universal Satellite Corp., a public company based in New York, announced a contract to sell high-resolution television projectors to Strong Progress Ltd., a subsidiary of China Resources Group of Hong Kong.

[54] According to the Los Angeles Times, the Riady family issued a statement in February of 1998 explaining the nature of their commercial relationship with China Resources and asserting that they have not "gathered classified information or [performed] other intelligence operations" in the course of their dealings with international partners. Los Angeles Times, 2/23/98. In addition, the classified information provided to the Committee supports the conclusion only that the Riadys' relationship with the Chinese Government involved normal business dealings within China.

[55] White House Communications Agency audio tape, 9/27/93, Letter to Jack Quinn, 10/7/93, EOP 49490.

[56] List of attendees at 9/27/93 afternoon event, EOP 965-969.

"Reception/Dinner" attended by approximately 50 individuals, including Shen Jueren. The Vice President was not seated at the same table as Shen at this event.[57] Despite the documentary evidence, the Majority relies on an alleged exchange captured on audiotape at the law firm event to argue that on the previous Friday, a White House meeting may have occurred. This audiotape is largely inaudible but appears to reflect that at the law firm event, an individual stated that "Kevin said he met you last Friday and I also come."[58] The tape does not seem to refer to Shen, nor, more importantly, was Shen listed as an attendance at that afternoon event.[59] The Majority's reliance on this tape to allege a meeting, despite all evidence to the contrary, is unpersuasive.

O The Majority implies that John Huang improperly transmitted information to members of the Lippo Group and to the Chinese government, despite insufficient evidence. The Committee developed no evidence that Huang ever mishandled or passed classified or other sensitive information. Moreover, evidence gathered by the Committee indicates that Huang's contacts with Lippo employees were for administrative or personal reasons.[60] For example, James Per Lee, the current president of Lippo Bank in California testified in his deposition that he had investigated the approximately 200 calls exchanged between Huang and Los Angeles-based Lippo employees and concluded that these calls were routine and brief. Per Lee testified that the calls were exchanges primarily between Huang and the bank's executive secretary in order to relay messages of calls received, and that calls to other employees concerned such matters as important bank clients, an appearance by Huang in a Chinese New Year's parade, and administrative matters dealing with the domestic subsidiaries.[61] After Per Lee's deposition, the Majority abruptly canceled his scheduled appearance before the Committee[62] and fails in its Report to recognize the Lee's deposition testimony.

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[57] Briefing papers and attendees for DNC "Reception/Dinner," 9/27/93, 6:00 p.m., EOP 962-964.

[58] White House Communications Agency audio tape, 9/27/93.

[59] List of attendees at 9/27/93 afternoon event, EOP 965-969; In addition, even if the reference of "Kevin" is to Shen Jueren, the individual could very well have been speaking to the Vice President's Chief of Staff, Jack Quinn, who accompanied the Vice President to the law firm event and who had briefly met Shen Jueren the Friday before that event.

[60] Among one summary of Huang's "Lippo contacts" were calls placed from Huang's Glendale home to the home of Lippo bank employee Ken Yuen, although Mr. Yuen testified in deposition that his wife was friends with Jane Huang. Ken Yuen deposition, 4/30/97, p. 23. No attempt was made to determine if Huang was in Glendale or Washington at the time such "contacts" occurred.

[61] James Per Lee deposition, 5/2/97, pp. 93-102.

[62] Harold Arthur, 7/15/97 Hrg., pp. 140-141.

O The Majority incorrectly asserts that three 1993 contributions from Lippo subsidiaries in the United States to the DNC were reimbursed with foreign funds. There is no evidence to support the Majority claim that three contributions to the DNC in September 1993 from three Lippo-owned California corporations were reimbursed with funds from abroad. Documents suggest that the contributions consisted of income generated in the U.S. For example, the Committee discovered a reimbursement request for a 1992 contribution from Hip Hing Holdings, but did not discover similar requests for the 1993 contributions, despite reviewing all such reimbursement requests for the relevant time period.[63] In addition, contrary to the Majority's assertions, administrator Juliana Utomo did not testify that these contributions were reimbursed from Indonesia.[64] And finally, unlike the domestic income generated for the 1992 contribution, the domestic income generated for each of the three companies that contributed in 1993 was more than sufficient to make the contributions from those funds.[65] The Majority's assertion that the 1993 contributions were reimbursed by funds from Indonesia has no evidentiary support.

O The Majority asserts that the Lippo Bank of California is controlled by the Lippo Group from abroad. In public testimony before the Committee, former bank President Harold Arthur testified the bank is owned and controlled by James Riady and managed by the Bank's Board. Arthur testified, "To the extent that any company controlled by a Riady family member is included within the portfolio of companies and investments under the common name of The Lippo Group, it could be argued that it is part of the Lippo Group. However, . . . the Bank is neither a subsidiary, nor a division of, nor controlled by, any company, group, partnership trust or other person or entity within the Lippo Group or otherwise."[66]

Response to Majority Report Chapter 14: "Huang at Commerce"

In this chapter, the Majority attempts to suggest that John Huang, while employed at the Department of Commerce, was a spy for the Riadys's Lippo Group, and, by extension, the Chinese government. After first implying that Huang was purposefully and carefully restricted from policy

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[63] Lippo Group holding companies requests for reimbursement of expenses from August to December 1993, HHH 0236-37.

[64] Juliana Utomo, 7/15/97 Hrg., pp. 12-15.

[65] Exhibit 105. During the July 15 hearing, Senator Thompson referred to an Advisory Opinion issued by the Federal Election Commission, the summary of which states that "in order for a contribution to be legal, a domestic subsidiary must make contributions out of net profits." Advisory Opinion 1992-16. While the Opinion holds it is proper for the particular domestic subsidiary seeking the Opinion to make contributions from its net profits, it does advise whether contributions from the net income of a domestic subsidiary operating at a loss are permissible. See legal analysis in Chapter 1, supra.

[66] Harold Arthur, Opening Statement, 7/15/97 Hrg., p. 10.

matters relating to China, the Majority then suggests that Huang improperly accessed and misused classified materials. The Majority also makes a point of noting that the Committee's work was complicated by Huang's refusal to cooperate.

The Majority fails to note, however, that Huang had offered to testify before the Committee without any restrictions as to allegations that he had engaged in espionage.[67] The rest of the Majority's conclusions are similarly based on ignoring or mischaracterizing evidence before the Committee.

O The Majority's assertion that it could not adequately investigate Huang's role at Commerce because Huang refused to cooperate with the Committee is partially correct. The Majority ignores the fact that the Committee took dozens of depositions, received thousands of documents and held public hearings on Huang's role while at Commerce.

O The Majority asserts that Huang was excluded from policy-making at the Department of Commerce because he "was not capable of doing the work." In fact, Huang was not explicitly excluded from any policy area or from receiving any policy-related information. Huang was hired by his immediate supervisor Charles Meissner to fulfill a primarily administrative position with the concurrence of Undersecretary of International Trade, Jeffrey Garten.[68] While Huang played a limited policy role at Commerce, this was primarily due to the administrative nature of his position and inter-department tension. Responsibility for high-profile areas was vested primarily at the Undersecretary and Deputy Undersecretary level, two levels above Huang.[69] No directive of any sort was ever issued by any of Huang's superiors that Huang was to be restricted from access to any policy area, including China, or that he be "walled off."[70] Huang was also never restricted, implicitly or explicitly, from receiving information regarding any particular country.

O The Majority asserts that the Department of Commerce security clearance procedures were inadequate and that "warning signs" pertaining to Huang were ignored. In fact, procedures used for Huang's clearance were identical to every other political appointee and no issues were uncovered in this investigation to suggest that Huang should have been denied a security clearance. Several issues relating to issuance of the clearances follow:

O The Majority asserts that the Clinton Administration initiated the policy of granting all Department of Commerce Officials an interim clearance. In fact, the policy of granting all political employees interim clearances was determined by career

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[67] Opening Statement of Senator Glenn, 7/8/97 Hrg., pp. 30-34.

[68] Jeffrey Garten, 7/16/97 Hrg., pp. 120-21.

[69] Jeffrey Garten, 7/16/97 Hrg., p. 122.

[70] Jeffrey Garten, 7/16/97 Hrg., p. 122, 137.

Department of Commerce Officials and not by political appointees or other Administration officials.[71] Although interim clearances had been issued in previous administrations, Steven Garmon, a career employee was then the Director of the Department of Commerce Security Office, instituted a policy of automatically granting interim clearances to all appointees in reaction to criticism which had been leveled at the Security Office in previous administrations over the delays political appointees had faced in obtaining their clearances and their consequent inability to attend certain meetings or receive certain information.[72] The policy was changed by Secretary William Daley in February 1997.

O The Majority asserts that a background check prior to issuance of Huang's interim security clearances showed that he had been "arrested or detained," and contends the finding was not followed up. In fact, Huang was never arrested or detained, and the NCIC record was reviewed by the agent handling the Huang clearance and by his superior, Security Office Deputy Director, Paul Buskirk.[73] Buskirk determined that the Immigration and Naturalization Service entry was within days of Huang's marriage in 1972, and was likely a fingerprint check as a part of the initiation of Huang's application for citizenship.[74] Buskirk's determination is supported by INS records produced to the Committee that indicate Huang was fingerprinted prior to being granted permanent resident status and was never arrested or detained.

O The Majority asserts that the lack of an overseas background check of Huang has left unresolved questions about Huang's contacts with the Chinese government. An overseas investigation was not conducted because the Office of Personnel Management determined that it was not necessary based on the fact that Huang had emigrated from Taiwan in 1969 and had been living in the U.S. since that time. Moreover, no derogatory information was discovered in the domestic background investigation.[75]

O The Majority asserts that an OPM investigator made a notation on Huang's file that signified he was a "potential security problem," and that this notation was ignored by the Department of Commerce Security Office. In fact, the "E" notation on a security file refers to unresolved issues such as a medical problem, not to indicate a potential security risk. No evidence was found in OPM's background check on Huang that related to loyalty,

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[71] Steven Garmon deposition, 5/23/97, pp. 25-27; Paul Buskirk deposition, 6/3/97, pp. 31-35.

[72] Steven Garmon deposition, 5/23/97, pp. 33-34.

[73] Joseph Burns deposition, 5/23/97, pp. 55-56.

[74] Paul Buskirk deposition, 6/3/97, pp. 53-54.

[75] Letter to Rep. Larry Cambest from James King, Director of OPM, 10/30/96.

terrorism, dishonesty in the application or examination process, felony offenses, liquor law violations, employment information, or even disturbing the peace.[76]

O The Majority implies that Huang may have improperly accessed classified information while at the Department of Commerce or received classified information beyond his 18-month tenure at Commerce. In fact, there is no evidence that Huang ever improperly accessed classified information or accessed any classified information outside of his 18 months of employment at the Department of Commerce. None of the intelligence officials questioned by the Committee indicated that there was any evidence of mishandling of classified information on the part of John Huang.[77]

O The Majority asserts that Huang had access to unprecedented amounts of classified information. In fact, Huang repeatedly declined access to additional classified information and received less classified material than either his predecessor or other individuals at his level. Huang turned down the suggestion of Meissner and Security Officer Bob Gallagher that he get an SCI clearance, a level above top secret.[78] Huang also never developed his cable profile to receive anything other that cables at the secret level addressed directly to him.[79] Huang's predecessor Rick Johnston received more frequent briefings and more extensive information than John Huang.[80] Testimony established that Huang's role, while primarily administrative, required him to be able to make informed decisions on a variety of policy issues about which he received classified information.[81]

O The Majority asserts that Huang's use of the Washington D.C. office of Stephens, Inc. is "cloaked in mystery," and implies that Huang's visits to Stephens were used to pass secret information to outsiders. Although the details of Huang's visits to the Stephen's office are not fully known to the Committee, the Majority neglected to request the appearance at public hearings of those individuals with knowledge of these details. For example, the Majority did not call as a witness Vernon Weaver, the head of the Washington office of Stephens, Inc., although Weaver had explained to the Committee in an interview the uses of the Stephens office. Weaver explained that Huang had used the office before he began employment at Commerce, that other people used the office, and that

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[76] Federal Investigative Programs Manual, Office of Personnel Management, 1991. The Majority could not have regarded this as a serious issue as the Minority was never notified of the interview of the OPM staff person, and no witness was questioned about the "E" notation.

[77] 7/16/97 Hrg., pp. 222-227.

[78] Robert Gallagher deposition, 5/30/97, p. 13.

[79] Staff Interview with Lewis Williams, 6/12/97.

[80] Staff interview of Richard Johnston, Jr., 6/12/97.

[81] David Rothkopf deposition, 6/2/97, p. 30.

Weaver in turn used an office in the Lippo Bank when he was in California.[82] Rather than call Weaver as a witness, the Majority instead called Paula Greene, a secretary at the Stephens office, although she was not able to provide similar information.[83] The Majority is correct that the purpose of Huang's visits is unclear, but it is unfair to cast this ambiguity in the most sinister light possible.

O **The Majority asserts that Huang arranged a meeting between Weaver and California State Treasurer Matt Fong which resulted in Stephens receiving business from the State of California.** The Majority appears to rely exclusively on Huang's agenda in making this assertion. Neither Fong nor Weaver were ever questioned about this meeting or the business relationship between Stephens and the state although Fong was deposed and Weaver was interviewed by Committee staff.

Response to Majority Report Chapter 15: "John Huang Moves From Commerce to the DNC"

In this chapter, the Majority goes to great lengths to imply that there was something sinister in the hiring of John Huang by the Democratic National Committee ("DNC"). The Majority repeatedly asserts that Huang was hired based upon the President's intervention on his behalf.

The Majority's conclusions are not supported by accurate descriptions of the testimony and omit critical facts. There is no evidence that Huang's hiring was suspicious, that it was part of an effort to raise foreign money, or that the President's involvement in the process was either significant or inappropriate.

O The Majority falsely implies that there was something inappropriate about the President being involved with Huang's move to the DNC to raise money in the Asian American community. The Majority's discussion of the President's "involvement" in Huang's hiring is misleading and a distortion of the facts. As noted below, the President did not play a "central role" in Huang's hiring, but even if he had, as the leader of his party, it is perfectly appropriate for the President to take an interest in DNC personnel matters, particularly when the DNC was reaching out to a new community, Asian-Americans. Nor does the fact that Huang was hired to raise money in the Asian-American community mean that there was a plan to funnel foreign money into federal elections. With the November 1995 initiation of the Asian Pacific American Leadership Council, the DNC was formally reaching out to a new community;[84] previously, the DNC had established fundraising and outreach programs in other minority communities such as in the Hispanic, African-

[82] Staff Interview of Vernon Weaver.

[83] Paula Greene, 7/17/97 Hrg.

[84] Donald L. Fowler deposition, 5/21/97, pp. 190-191; Richard L. Sullivan deposition, 6/5/97, pp. 12-13.

American, and Jewish communities, and it also had fundraising and outreach to women's groups.[85]

O The Majority's claim that the President "played a central role" in Huang's hiring is supported by misleading, and inaccurately characterized testimony. The Majority cites to press accounts and unsworn interviews to describe a conversation between DNC Finance Chairman Marvin Rosen and the President relating to Huang, despite the fact that the Committee deposed Rosen and therefore sworn testimony was available. The Majority fails to mention that Rosen stated in his deposition that his conversation with the President regarding Huang was "very brief, seconds of time."[86] The Majority's conclusion that "the President himself intervened" with the DNC to hire Huang is supported only by this brief conversation that occurred when the President happened to see Rosen in the receiving line at a fundraiser. In addition, DNC National Chairman Don Fowler testified that he personally made the decision to hire Huang, without consulting anyone from the White House and without knowledge of the President speaking to Rosen.[87]

O The Majority Report falsely implies that Huang received no training. Despite a discussion about Huang's hiring and conversations about his training (and additional discussion of this subject in other chapters), the Majority fails to mention the uncontested fact that Huang was trained. The Majority extensively investigated this issue, asking numerous witnesses about Huang's training and developed a significant record that clearly establishes that Huang was trained. Huang was placed at a group training session by fellow Finance staffer and office mate Sam Newman;[88] a copy of the DNC's legal guidelines for fundraising was found in his files;[89] DNC General Counsel Joseph Sandler testified that after reviewing checks with Huang after a fundraising event, Sandler determined that Huang was familiar with the laws and guidelines by which he was to raise money;[90] and Sullivan testified that Sandler communicated this to him.[91] Despite this uncontested record developed by the Majority, there is absolutely no mention of these facts in the Majority Report, which instead focuses on discussions before Huang was hired regarding the type of training that Huang should receive. These omissions leave the reader with the false impression that Huang was not trained.

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[85] Richard L. Sullivan deposition, 6/5/97, p. 9.

[86] Marvin S. Rosen deposition, 5/19/97, pp. 139-140.

[87] Donald L. Fowler deposition, 5/19/97, p. 171.

[88] Samuel Newman deposition, 7/17/97, pp. 142-143.

[89] Joseph E. Sandler, 9/10/97 Hrg., p. 13.

[90] Joseph E. Sandler deposition, 8/21/97, p. 17. Sandler also testified that he communicated this level of comfort to either DNC Finance Director Richard Sullivan or DNC Treasurer Scott Pastrick.

[91] Richard L. Sullivan deposition, 6/5/97, p. 23.

Response to Majority Report Chapter 16: "John Huang's Illegal Fundraising at the DNC"

In this chapter, the Majority discusses Huang's fundraising while at the DNC. The Majority states that there were concerns regarding Huang's fundraising before he even undertook his first event and concludes that Huang's involvement in and/or organization of several events should have been a "warning sign" for the DNC.

In so doing, however, the Majority draws conclusions that are not supported by the evidence.

O The Majority Report falsely claims that there is "contradictory testimony on whether Sandler trained Huang." The testimony is absolutely consistent that Huang was trained (see Response to Majority Chapter 15). In this chapter the Majority tries to exploit a minor contradiction regarding the "type" of training Huang received -- the training given to all DNC fundraisers or a special training just for Huang. Even this contradiction has been reconciled in testimony before the Committee: former DNC Finance Director Richard Sullivan's understanding that Huang received private training[92] most likely resulted from the session in which Sandler reviewed checks with Huang after his first event.[93]

O The Majority Report illogically asserts that contributions solicited by Huang and returned by him in March of 1996 were a "warning sign." Far from being evidence that Huang was acting improperly, Huang's returns of contributions suggest that he knew the rules and was following them by initiating the return of funds he believed to be problematic.

O The Majority Report fails to mention the lack of any corroboration of Rawein Soberano's statements regarding Huang and the DNC. The alleged lunch between Soberano and Huang is not noted on Soberano's calendar, and Soberano says there was no credit card, reservation, or other documentary evidence of his lunch.[94] Moreover, the Minority discovered that the Majority made undisclosed failed attempts to corroborate Soberano's story. When the Minority called the Organization of Chinese Americans to determine whether Huang was registered for its June 1996 conference in San Francisco (at which Soberano claimed that he saw Huang), we learned that Huang was not on the registration list, and that the Majority had (undisclosed to the Minority) called and received the same information. Indeed, the sole corroboration the Majority claims to have for Soberano's story is an interview with Jerry Parker (from whom Soberano rented office space). It should be noted that the Majority neither notified nor invited the Minority to this interview. The Majority also failed to provide the Minority with either a transcript or a memorandum from this

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[92] Richard L. Sullivan deposition, 6/5/97, pp. 23-24.

[93] Joseph E. Sandler deposition, 8/21/97, p. 15.

[94] Rawlein Soberano, 9/16/97 Hrg., pp. 211-212; Rawlein Soberano deposition, 5/13/97, pp. 29-31, 39.

interview. According to the Majority, Parker "confirmed" in this interview that Soberano told him he had lunch with Huang. If the Majority had, in fact, obtained corroboration of Soberano's allegations, it is unclear why the Majority did not provide this information to the Minority or mention the information during the public hearing on this subject.

Response to Majority Report Chapter 17: "The Hsi Lai Temple Fundraiser and Maria Hsia"

In this chapter, the Majority discusses the DNC-sponsored event at the Hsi Lai Buddhist Temple in Hacienda Heights, California. The Majority spends nearly half of the chapter discussing the activities of Democratic activist Maria Hsia and her associates, including DNC fundraiser John Huang. The Majority details the contributions made by monastics since 1993 who were reimbursed by the Temple. Finally, the Majority discusses the DNC event held at the Hsi Lai Temple on April 29, 1996, focusing on what the Majority believes the Vice President knew and when he knew it.

The Majority's analysis is riddled with inaccuracies and baseless conclusions. In the most serious of these conclusions, the Majority inaccurately claims that this event was a fundraiser, that the Vice President knew this in advance of the event, and that he proceeded to participate in this event despite this information.

O By mischaracterizing testimony and using documents in a misleading fashion, the Majority incorrectly asserts that the Vice President and his staff were aware as early as January 1996 that the Hsi Lai event was to be a fundraiser. The Majority cites to several memoranda from White House Deputy Chief of Staff Harold Ickes to prove that the Vice President was personally and specifically informed of amounts of money the Temple event was intended to raise. All of these memoranda are spreadsheets with dozens of other events and goals listed; none specifically discusses or names the Hsi Lai Temple event. Contrary to the Majority's assertion, the Vice President's Deputy Chief of Staff, David Strauss, testified in his deposition that the Vice President did not look at these spreadsheets. There were events on those spreadsheets which never, in fact, occurred but which stayed on the list.[95] In making these allegations, the Majority ignores the testimony of all witnesses with first-hand knowledge about the scheduling practices of the Vice President's office and about the events that surrounded the scheduling of the Temple event, including Strauss,[96] Kimberly Tilley[97] and Ladan Manteghi.[98] In fact, the Majority refused to call Manteghi as

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[95] David Strauss deposition, 8/14/97, p. 236.

[96] David Strauss, 9/5/97 Hrg., pp. 31, 39. And see pp. 41-44 where Strauss testifies:

Q: Prior to the time that the newspaper articles appeared in the fall of 1996, did you have any reason to believe that anybody on the Vice President's staff had heard that there was any fundraising engaged in by Ms. Hsia, by virtue of a call from Mr. Huang?

A: I have no knowledge that anyone did know.

a public witness despite a letter of request from every Minority Member of the Committee. For a full discussion of these events, see Minority Chapters 4 and 21.

O The Majority's basis for concluding that the Temple event was a fundraiser ignores significant evidence that establishes that it was not. The DNC routinely organizes both fundraisers and community outreach events since it is important to motivate both financial and political supporters during a campaign.[99] At the Temple event, there was no entrance fee; tickets were not collected or sold at the door; the speakers did not solicit donations; and many of those who attended did not contribute to the DNC at all.[100] In addition, attendees at the event confirm that it did not appear to be a fundraiser. Charlie Woo, told Committee investigators that there was "no mention of money at the event."[101] Mona Pasquil, DNC Western States political director and former director of Asian-Pacific affairs, testified that she saw no signs of fundraising, such as a table at the door, name tags, checks being exchanged, or solicitations for money.[102] DNC Chairman Fowler described it as an "outreach event" similar to those he attended at churches in the 1960s; not everyone who attended also contributed, and there were none of the typical trappings of a fundraiser.[103] Fowler also testified, "[T]here were three people who made presentations there -- myself, the temple master, and the Vice President. None of the three of us made any reference to raising money, contributing

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Q: Did you ever know anything about contributions having been collected or monies having been collected prior to the April 29th event at the Hsi Lai Temple? There has been testimony that a certain amount of money was generated in advance of the event.

A: I had no knowledge of that.

Q: Do you have any reason to believe that the Vice President knew anything relative to this event, either prior to the event or that after the event any monies had been collected?

A: I have no reason to believe that he knew anything about this.

[97] Kimberly Tilley deposition, 6/23/97, p. 124.

[98] Ladan Manteghi deposition, 8/26/97, pp. 53-57, 67.

[99] See Chapter 25 of the Minority Report for further discussion of the distinction between fundraisers and community outreach events.

[100] Donald L. Fowler, 9/9/97 Hrg., pp. 26-29.

[101] Staff interview of Charlie Woo, 5/30/97.

[102] Mona Pasquil deposition, 7/30/97, pp. 59-62.

[103] Donald L. Fowler, 9/9/97 Hrg., pp. 26-29, 71-72.

money, giving money before or after."[104]

Persons associated with the Temple who helped organize the event also indicated that they did not consider the event to be a fundraiser.[105] Man-Ho, assistant to the Temple abbess, testified at the hearing that Temple personnel did not focus on fundraising during planning before the event.[106] In her deposition, she said that the guests "were not required to pay a buck for [the] luncheon. . . ."[107] She also told the Committee that she did not see anything at the event that would indicate that it was a fundraiser.[108] The head of the Temple, Venerable Master Hsing Yun, provided a statement to the Committee with consistent information.[109]

Ignoring this evidence, the Majority concludes that the event was a fundraiser based on unfounded inferences:

According to the Majority's Report, Immigration and Naturalization Service official Daniel Hesse heard references to money raised, but what the Majority writes that he heard -- "they had raised X amount of dollars" -- does not amount to a solicitation. A solicitation is generally believed to be a request for contributions whereas this is merely a statement of what the DNC had raised; far from a request for funds. Furthermore, this interview was conducted unilaterally by the Majority, and, though the Majority cites the interview as having occurred in August of 1997, before the Committee's hearings on the Temple event, this information was not introduced at the Committee's public hearing which might have presented a fuller picture of the event.

The Majority's reliance on Sherry Shaw's assertion that she heard a solicitation from a luncheon speaker is also not credible; not one of the approximately 100 others in the audience claims to have heard this. Moreover, Shaw's assertion does not comport with Hesse's statements to the Majority or the recollections of Charlie Woo (another attendee) or Boston Globe reporter John Aloyisius Farrell. According to the Majority, in addition to Shaw's statement to Committee FBI agents on May 14, 1997, Shaw submitted a sworn statement to the Committee in August 1997 which contained this information. Again, this was the month before Committee hearings on the Temple event, and once again, the Majority did not divulge this material which it believed to have been relevant to the investigation.

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[104] Donald L. Fowler, 9/9/97 Hrg., p. 29.

[105] Man-Ho Shih, 9/4/97 Hrg., p. 83; Man-Ho Shih deposition, 8/6/97, pp. 136-146.

[106] Buddhist nuns, 9/4/97 Hrg., p. 143.

[107] Man-Ho Shih deposition, 8/6/97, pp. 134-37.

[108] Man-Ho Shih, 9/4/97 Hrg., pp. 137-139.

[109] Statement of the Venerable Master Hsing Yun presented during his interview with Committee investigators, 6/17/97, p. 3.

O The Majority inaccurately states that the solicitation of contributions by Hsia assistant Matt Gorman and the nuns proves the Temple event was a fundraiser. While Huang and Hsia used the event to encourage contributions to the DNC the day after the even occurred, there is no evidence that the DNC was aware of these activities nor do the activities establish that the Temple event was a fundraiser.

O The Majority incorrectly asserts that the Vice President's March 15, 1996, meeting with Master Hsing Yun was set up for the sole purpose of the Master inviting the Vice President to the Hsi Lai Temple for a DNC event. Temple administrator Man Ho testified that the Master was not particularly interested in going to Washington for a possible meeting with the Vice President.[110] Although the meeting took place, it lasted only 10 minutes.[111] Briefing memos prepared for the Vice President for the meeting do not mention a DNC event at the Temple in April of 1996; the Master simply invited the Vice President to visit the Temple.[112] Moreover, there is no evidence that a DNC event was ever discussed, and the Majority's assertion to the contrary is nothing more than speculation.

O The Majority incorrectly states that there never really was a second event planned at a restaurant in Southern California for April 29, 1996. While there is little testamentary evidence that such an event was planned, this does not prove that Huang and Hsia never contemplated such an event. At least two documents produced by Hsia's consulting firm, Hsia & Associates, show that such an event was contemplated by Hsia at one time.[113] And Charlie Woo, an attendee at the April 29, 1996 event, told Committee FBI detailees that Huang originally invited him to attend an event at a restaurant in Southern California and later called to tell him that the location had been changed to the Hsi Lai Temple.[114]

O The Majority concludes that the nuns' alteration and destruction of documents constituted "deliberate destruction of evidence" and was done to protect the Vice President and Maria Hsia. After the Temple events were publicized, two nuns involved in Temple

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[110] Man-Ho Shih deposition, 8/6/97, p. 96.

[111] Statement of the Venerable Master Hsing Yun presented during his interview with Committee investigators, 6/17/97.

[112] David Strauss, 9/5/97 Hrg., p. 12.

[113] Exhibit 772: 3/23/96 letter from Maria Hsia to the Vice President, SEN 01719; Invitation to DNC Asian Pacific American Leadership Council event at Harbour Village Restaurant in Monterey Park, California; the name of the restaurant is crossed out and Hsi Lai Temple is written in, SEN 00111.

[114] Staff interview of Charlie Woo, 5/30/97; see also Richard Sullivan deposition, 6/25/97, pp. 21-22.

bookkeeping and administration altered and destroyed some documents.[115] There is, however, absolutely no evidence that their actions were undertaken with the knowledge or consent of anyone at the White House or the DNC. Nonetheless, the evidence does indicate that at least some Temple officials were conscious of possible wrongdoing. Yi Chu, the Temple bookkeeper, testified that she knew the Temple could not contribute directly, in its own name, which is why she had to go through the process of finding individuals to write checks.[116]

O The Majority falsely implies that beginning in the 1980s, Maria Hsia had inappropriate access to then-Senator Gore based on her fundraising activities. What the Majority does not mention is that fundraising and political outreach organizations are not only an appropriate and legitimate means of stimulating public interest in the democratic process, they are also commonplace. The Majority's insinuation that when organizations and leaders within the Asian-American community participate in these activities, something untoward or sinister must be involved is disturbing. In the 1980s, Hsia helped form the Pacific Leadership Council and was an active and open fundraiser in the Asian-American community. There is nothing sinister about the Vice President reaching out to and raising money in this community. Hsia was one of hundreds of people who raised money for the Democrats throughout this country.

O The Majority repeats its allegations that Maria Hsia is an "agent," without stating that the classified information that forms the basis for this allegation -- certain activities she undertook while an immigration consultant in the early 1990s -- has no connection whatsoever to Hsia's fundraising for the Democratic party.[117]

O In this chapter, the Majority also takes the opportunity to mischaracterize the Democratic Senatorial Campaign Committee's ("DSCC's) tally program. The Majority falsely states that the tally program serves as a means by which contributors can "earmark" large "soft money" contributions to particular senate candidates in circumvention of the FECA's hard money limits. The Majority also incorrectly suggests that the tally program was "ultimately found to be illegal" and terminated. The Majority is wrong on all scores. First, the Majority is incorrect in its characterization of the tally program as a program that permits "earmarking." In fact, the Federal Election Commission rejected this precise claim when it was made by the National Republican Senatorial Committee in 1996.[118] When it dismissed that complaint, the FEC's general counsel stated that "there is no evidence that the DSCC accepted earmarked tallied contributions or pass [sic] earmarked contributions on to the Democratic Senate candidates in the form of coordinated party

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[115] Man-Ho Shih, 9/4/97 Hrg., pp. 34-35; Yi Chu, 9/4/97 Hrg., pp. 60-61.

[116] Yi Chu deposition, 8/7/97, p. 31.

[117] See Minority Chapter 2. See also Affidavit of Maria Hsia, 2/98.

[118] See Complaint filed 9/27/96 in MUR Nos. 4490 and 4502.

expenditures."[119] In fact, an earlier agreement between the DSCC and FEC was premised on the fact that the DSCC did not earmark tallied contributions -- although some contributors participants in the program may have been confused. As the FEC stated in its April 14, 1997, letter to the DSCC dismissing the NRSC's complaint about the tally program "[u]nderlying the need for the remedial requirements in the August 1995, conciliation agreement was the belief that participants in the tally program did not understand how the tally program differed from earmarking." The FEC dismissed allegations that the 1996 tally program amounted to earmarking or violated the law.

Response to Majority Report Chapter 18: "The China Connection: Summary of Committee's Findings Relating to Efforts of the People's Republic of China to Influence U.S. Policies and Elections."

In this chapter, the Majority explains that the Committee's investigation of campaign finance activities included both a public examination of foreign interests connected to the U.S. political process during the 1996 federal election cycle, and an examination of classified information regarding possible Chinese Government involvement in the U.S. political process. The Majority states that the public and classified information together warrant a number of conclusions. The Majority identifies six individuals with "extensive ties" to the Chinese Government who "produced or facilitated foreign campaign contributions" from "the Greater China area" and states that "discussions took place and actions were taken that suggest . . . that a variety of PRC entities were acting to influence U.S. elections." The Majority concludes:

> The Committee has learned in sobering detail of a wide range of covert PRC efforts in the U.S. and overseas designed to influence elections in this country. Many of these activities may or may not have been part of a single, coordinated effort. Regardless, a coordinated approach may have evolved over time. Other efforts, though undertaken by PRC government entities, have been characterized as rogue activities. Such fine distinctions fall beyond the scope of this report.

Unfortunately, the Majority chapter addressing these important issues does not lay out the information received by the Committee and then draw clear conclusions based on that evidence. For example, the chapter does not identify sources for most of its conclusions or state whether the information for those conclusions came from the Committee's public investigation or from the Committee's review of classified information. In fact, the vast majority of the statements made in the Majority chapter are derived from public information that has been available to the Committee and the public for some time.

Another example of this obfuscation is the Majority's identification of six individuals who it states have "extensive" ties to China or the Chinese Government followed by its assertion that these ties are demonstrated by political contributions or other activities that in fact have stronger connections to Indonesia, Taiwan, Cambodia or Hong Kong. Having found that there is very little

[119] MUR Nos. 4490 and 4502 at 12 (General Counsel's Report.)

evidence connecting the individuals it has targeted to China, the Majority curiously refers to these Asian countries and the then-British controlled property as the "Greater China" area.

Along the way, the Majority chapter also makes a number of inaccurate or exaggerated statements to support its case. The Majority chapter contains errors in fact and characterization even when they are based on public information. Such false and exaggerated statements based on public information raise significant questions about the accuracy of the Majority's conclusions based on classified ("non-public") information, which is not available for independent public assessment.[120]

Most important is the fact that, after the Committee's year-long investigation into the "China Plan," the Majority chapter does not provide clear or useful information to the public. For an analysis of the classified information received by the Committee during its investigation, see Chapter 2 of this Minority Report.

The Minority responds to some of the statements set forth in the Majority chapter:

O Most of the Majority's conclusions are based on media allegations and public information that has been available to the Committee and the public for months. Throughout the Majority's chapter on the China Plan, there are bold assertions about connections to Chinese Government officials and other fundraising activities without clarifying upon what information those assertions based. As a result, the Majority makes no clear statements about what conclusions can be derived from public information presented to the Committee and what conclusions are drawn from classified (or "non-public") information. This approach implies that the Committee received more non-public information than it actually did to support the Majority's conclusions.

O The Majority's quotations of newspaper articles do not appropriately or accurately describe information made available directly to the Committee. Reliance in a Senate Committee report on the media's second hand characterizations of non-public information is unwarranted, particularly here where the Committee had the direct information available for its review.[121]

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[120] The conclusions based on classified information, as stated in the Majority and Minority Reports, were not approved by any Executive Branch agency. Letter from George J. Tenet, Director, Central Intelligence Agency to Senator John Glenn, 2/18/98; Letter from George J. Tenet to Chairman Fred Thompson, 2/18/98; Letter from Robert M. Bryant, Deputy Director, FBI to Senator John Glenn, 2/25/98. See also Letter from Andrew Fois, Assistant Attorney General, Department of Justice to Chairman Fred Thompson, 7/11/97.

[121] For example, the Majority chapter cites a February 13, 1997 Washington Post article that stated that Executive Branch agencies had discovered information that the Chinese Government "sought to direct contributions from foreign sources to the Democratic National Committee before the 1996 presidential campaign." Several months later, however, the Committee received direct testimony from the Executive Branch agencies themselves that, based

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O The Majority's chapter on the China Plan fails to make any clear conclusions, demonstrated by the fact that the chapter contains 25 statements that include phrases such as "may or may not," "possibly," "believed to be," "indicated," and "suggest."

O The Majority chapter also makes a number of contradictory assertions and also ignores, without explanation, crucial facts regarding the foreign connections uncovered in the Committee's investigation. Some examples are:

- **O The Majority does not explain how contributions from Indonesia, Taiwan, Cambodia or Hong Kong demonstrate that the Chinese Government "may or may not" have funneled money into political campaigns.** The contributions and activities listed by the Majority in its chapter derive from a variety of independent Asian countries. The Majority's use of the term "Greater China" or the "Greater China Area" is an unjustifiable attempt to bend the facts to make all connections to every Asian country look like a connection to China.

- **O The Majority does not explain why it has focused exclusively on certain individuals' "ties to China" without recognizing that the individuals targeted in its chapter have equal, if not stronger, ties to Taiwan and Indonesia.** It is clear from the Majority chapter itself that most of the individuals it lists as having "extensive ties" to China or the Chinese Government in fact have strong ties to Taiwan, Indonesia or Hong Kong, entities not under the control of the Chinese Government during the 1996 election cycle. For example, John Huang was raised in Taiwan before moving to the United States in 1969 and becoming an American citizen; Maria Hsia was born in Taiwan and is an American who continues to have strong family and institutional ties to that country; and the Riadys are Indonesians with business interests around the world. The Majority chapter provides no explanation or analysis of why it ignored ties to other Asian countries in order to focus exclusively on China or why it assumes all ties to any Asian country demonstrates a tie to China. The Majority also provides no explanation for why it ignored non-public information about other countries and their political activities in the United States. See Minority Chapter 2, Information Not Pursued by the Committee.

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[121](...continued)
on the information available at the time, there was no indication that the China Plan was directed at influencing the presidential race or that it had affected that race with campaign contributions. Closed Committee Hearing, 7/28/97, pp. 41-44, 54. The Majority chapter also cites a March 9, 1997 Washington Post article in order to describe a 1996 FBI briefing to members of Congress regarding the China Plan. Several months after that article appeared, however, the Committee received direct information and testimony from the Executive Branch agencies about this and similar briefings. Closed Committee Hearing, 7/28/97, p. 19-12, 84.

- **The Majority ignores the contradiction in its assertion that connections to Taiwan demonstrate connections to China.** The Majority states in its Report that Taiwan is considered by China to be "a rogue province" but nonetheless assumes that certain individuals' connections to Taiwan may also demonstrate connections to China or to the China Plan.

- **The Majority chapter explains that a China Plan was developed after Taiwanese President Lee's visit to the United States in the spring of 1995, but does not explain why a number of the activities it highlights occurred before that time period.** The Majority states that after Taiwanese President Lee's visit to the U.S. in 1995, the Chinese Government "[s]ecretly" developed a plan that went beyond increasing lobbying efforts to include "influencing U.S. policies and elections through, among other means, financing election campaigns." The Majority then highlights, among other things, a 1989 trip to Taiwan organized by Maria Hsia, 1993 political contributions from Lippo Group subsidiaries, and 1993 "meetings" involving Shen Jureun. Whether these activities are connected to the Chinese Government is one question. Another question is why these activities are highlighted when the Committee was informed in closed-door proceedings that prior to 1995 and the formulation of the so-called China Plan, the Chinese Government's efforts to promote its interests in the United States were focused almost exclusively on using traditional diplomatic means.[122]

O The Majority chapter also makes assertions based on <u>public</u> information that are unsupported by either publicly available or classified information. This raises serious questions about the accuracy of the Majority's assertions that it claims are based on classified information not available to the public. A few examples of the Majority's misstatement and exaggerations based on public information are:

- **The Majority inaccurately claims that in September 1993, contributions to the DNC by three Lippo Group subsidiaries located in California were " paid with foreign money" from Jakarta, Indonesia. The Majority then uses this unproven conclusion to tie the supposed foreign contributions to "meetings" between the Vice President, and John Huang and Shen Jueren. According to the Majority, Shen is the head of a commercial enterprise "identified as a PRC intelligence gathering operation."**

  There are several inaccuracies in these Majority assertions.

  <u>First</u>, while it is true that the Committee received evidence that in August of <u>1992</u>, one subsidiary of the Lippo Group made a $50,000 contribution to the DNC and, according to a reimbursement requests obtained by the Committee, the subsidiary was

[122] Closed Committee Hearing, 7/28/97, p. 5-6.

likely reimbursed for this contribution from Indonesia, no such evidence was received regarding the 1993 contributions. The Committee reviewed the same reimbursement forms for the three subsidiaries that contributed to the DNC in 1993 and found no document requesting reimbursement for those checks.[123] In addition, the Majority's general citation to the testimony of a LippoBank employee does not establish that the 1993 contribution was reimbursed.[124]

Second, the Majority apparently makes this new allegation about the 1993 contributions so it can falsely assert that foreign funds were connected to two "meetings" attended by Huang and Vice President Gore in that same month of 1993. Even here, the Majority has it wrong. The Majority states that "the day after Huang wrote" the checks, he "escorted Shen Jueren to a White House meeting with Gore's chief of staff, Jack Quinn, and may have met with Gore as well."[125] Public documents received by the Committee, however, establish that Huang and Shen Jueren did not have a meeting with Vice President Gore on that day.[126] Regarding the second

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[123] Lippo Group holding companies requests for reimbursements of expenses from August to December 1993, HHH 0236-37).

[124] See Juliana Utomo, 7/15/97, Hrg. pp. 14, 53. (Utomo did not testify that the 1993 contributions were reimbursed and, in fact, she did not even take over the relevant responsibility when working for these subsidiaries until 1994.)

[125] The Majority chapter, as provided to the media in February 1988 and as provided to the Minority in "final" form on March 2, 1998, stated that "Huang escorted Shen Jueren to a White House meeting with Gore and his chief of staff, Jack Quinn." On March 3, 1998, the Majority changed the language to assert that Huang "may" have met with Vice President Gore on that day. This change was welcome, but as described below, the Majority has continued to make this less definitive assertion despite the fact that the evidence does not suggest that a meeting with Vice President Gore occurred on that date.

[126] The first "meeting" was in reality a "stop by" meeting with Jack Quinn, a staff member in the Office of the Vice President. Letter from Huang to Quinn, 10/07/93 (EOP 049490). In fact, despite the Majority's assertions in its report about the possibility of a "meeting" with Vice President Gore, the Majority never requested the schedules for the Vice President or Quinn on that day, or requested any other information from the Vice President's office or Quinn about this alleged meeting. As a result, the schedules were not received by the Committee because they were not requested, nor are they responsive to other Committee requests. In order to assess the Majority's new allegation in its Report, the Minority requested documents and information regarding the activities of that day. In addition to the fact that Huang's letter to Quinn makes clear that Huang and Shen did not meet with the Vice President on September 24, 1997, documents also establish that no "meeting" took place. Schedule of Vice President Gore for

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alleged "meeting," the Majority is referring to a "DNC Reception/Dinner" in Santa Monica attended by the Vice President and approximately 50 other people. The Vice President was not seated at the same table Shen.[127] The Majority assertions that Shen had a meeting in the White House with Vice President Gore is not supported and its description of a DNC reception and dinner as an additional "meeting" between Shen and Vice President Gore is a mischaracterization of the facts.

Third, the Majority's description of "China Resources Holding," a company then "head[ed]" by Shen Jueren who retired in 1995, as one "identified as a PRC intelligence-gathering operation" is apparently designed to imply there was contact between a Chinese Government intelligence official and the Vice President. In addition to falsely stating that the 1993 contributions came "from foreign funds" that had some connection to "meetings," the Majority's description of China Resources Holding is also an exaggeration. According to public information, China Resources Holding is apparently the current name of the entity once called, and often still referred to as, China Resources.[128] The company has been located in Hong Kong for 50 years and engages in trading and investment involving "retailing, property development, hotels and infrastructure," with an estimated asset value of 6.5 to 8 billion dollars, 76 percent of which is in Hong Kong, 17 percent in Mainland China and 7 percent overseas.[129] The organization is also known to be a Chinese

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[126](...continued)
9/24/93; Schedule of Jack Quinn for 9/24/93. Instead, it appears that Huang, Shen and Shen's assistant dropped by for a visit with Quinn. Letter from Huang to Quinn, 10/17/93 (EOP 049490).

[127] Briefing papers for Vice President Gore, DNC Reception, 3/27/93 (EOP 000959J-64J) (approximately 50 attendees and Shen Jureun is not listed as one of the few people seated at the Vice President's table.). Earlier that day, Vice President Gore met with over 20 Asian American leaders at a Los Angeles law firm for approximately 40 minutes. In its chapter on Huang's activities while at the Lippo Bank, the Majority asserts that an audio tape proves that Shen was present at that event as well. However, the attendance list for that afternoon event does not include Shen and the audio tape also does refer not to Jueren. Briefing papers for Vice President Gore, Meeting with Asian American Leaders, 4:35-5:15, 9/27/93 (EOP 000965-69); Audio tape, 9/27/93, White House Communications Agency (Produced to the Committee 10/97). See Minority Response to Majority Chapter 13.

[128] See www.chinaresources.co on the internet. The site provides information about the group and states that China Resources Holding is the current name of the entity once called, and often still referred to as, China Resources.

[129] Financial Times (London), 8/21/93; Time, 5/5/97; Washington Post, 7/18/97;
(continued...)

Government-owned trading and import/export intermediary that does business within China as well as with foreign companies, including American companies.[130] The Minority does not set forth any conclusions about this organization because the Committee did not conduct a meaningful investigation on the topic. However, the Majority's characterization of the organization as a "PRC intelligence-gathering operation," something the Majority also alleged during the Committee's public hearings in July 1997,[131] appears to be an exaggeration of the facts in order to support its unwarranted conclusion.

- **The Majority's statement that "Ted Sioeng was one of the DNC's largest contributors during the 1996 federal election cycle" is not supported by the evidence.** The Majority states that "Sioeng, his family and his business enterprises contributed $400,00 to the DNC in 1995 and 1996." Public records show, however, that the $400,000 apparently attributed to Sioeng by the Majority includes $250,000 given to the DNC by Sioeng's adult daughter, a U.S. permanent resident and businesswoman, or from companies that she legally controls, and $150,000 from two individuals who are not employed by Sioeng and who are also eligible to contribute to the DNC.[132] Although Sioeng is associated with these individuals and attended several DNC events with his family, there certainly is not sufficient evidence to state that Sioeng, who is not attributed with giving any money to the DNC, was one of the

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[129](...continued)
www.chinaresources.co.

[130] Time, 5/5/97; Rueters Wire, 3/31/96, 6/26/85, 2/7/96; Xinhua Wire, 11/10/92; Washington Post, 7/18/97.

[131] Thomas Hampson, 7/15/97 Hrg. pp. 67-73; Senator Bennett, 7/15/97, Hrg. pp. 67-73.

[132] Staff interview with Jessica Elnitiarta, Sioeng's daughter, 6/19/97; Memorandum of Steven Hendershot, FBI Agent detailed to the Committee, "Re: Jessica Elnitiarta Record Review," 8/22/97; Letter from Thomas McLish, counsel for Elnitiarta, 6/18/97; FEC Records; Other contributions came from Subandi Tanuwidjaja and Kent La, both of whom are associated with Sioeng and Elnitiarta, but neither of whom are employees of Sioeng's. FEC Records; Staff interview with Jessica Elnitiarta, 6/19/97; FBI Special Investigator interview with Kent La, 5/13/97 (La is an independent distributor whoe does business with Sioeng). This interview was conducted in Chinese by an FBI agent detailed to the Committee who transcribed the contents of the interview in a report to the Committee dated 5/14/97. There is nothing in the interview report that states that La works for Sioeng or that La contributed to the DNC based on requests from Sioeng.

"largest contributors" to the DNC in the last election cycle.[133]

- **The Majority's conclusion that the Chinese Government consulate in Los Angeles gave a hotel owned by Sioeng $3,000 "for the purpose of making or reimbursing" Sioeng for a political contribution to a California state candidate is not based on a sufficient investigation.** The Majority states that "the Committee has concluded" that the Chinese Government provided $3,000 to a hotel in California in order to reimburse Sioeng for a $5,000 political contribution to a Republican California state candidate. The Majority apparently reached this conclusion based only on review of two bank transfers.[134] The Majority did not request information from the hotel about the reason for this $3,000 payment and it appears that the payment may have been made to the hotel to cover expenses of a Chinese Government television crew that stayed there in 1996.[135]

- **The Majority's statement that Charlie Trie's contributions solicited for the Presidential Legal Trust Fund were "ultimately" reimbursed with money from Taiwan and Cambodia is an exaggeration.** Putting aside the propriety of Trie's unsuccessful attempt to provide the private trust fund with nearly $500,00 in contributions,[136] the evidence before the Committee supports the conclusion that of the nearly $500,000 of attempted contributions, only $70,00 came from abroad: $40,000 from Taiwan and $30,000 from Cambodia.[137]

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[133] The Majority also states that Sioeng and his family and business interests "spent over $550,000 on political campaigns and organizations in 1995 and 1996." This figure is derived from the $400,000 contributed to the DNC by his daughter, her companies and associates; $100,000 contributed to Matt Fong, a Republican California official, apparently by Sioeng's companies in Hong Kong and $50,000 contributed by his daughter's company to the National Policy Forum, an arm of the RNC. See Chapter 7 of this Minority Report.

[134] See footnotes 13 and 14 of the Majority chapter.

[135] Los Angeles Times, 2/23/97 (stating that attorneys for the hotel supplied billing records to verify that the hotel charges were to cover the expenses of a Chinese government television crew in early 1996). The Committee did not request such information and therefore the Minority is unable to reach a conclusion about the purpose of the payment to the hotel.

[136] In Majority Chapter 20, which discusses Charlie Trie's attempted contributions to the Presidential Legal Expense Trust, the Majority claims that the amount of Tries' attempted contributions was not "nearly $500,00," but instead "$789,000." The Majority's figure in this chapter is the accurate one.

[137] Zhi Hua Dong deposition, 6/17/97, pp. 98-105. Interviews reports and other analyses (continued...)

O The Majority chapter's pattern of misstating and mischaracterizing public information received by the Committee is continued in the Majority's treatment of classified information received by the Committee. When the Executive Branch agencies reviewed the portions of the Majority and Minority report regarding the China Plan, they expressly noted that their review was limited to deleting direct factual errors or classified information. The agencies informed the Committee that they did not take any position regarding conclusory statements made by either the Majority or the Minority based on classified information.[138] And indeed, the Minority here responds to some of the most egregious allegations made by the Majority against American citizens and other individuals based on ill founded conclusions of classified and other information.

- **O The Majority's two statements about John Huang do not show that he had "extensive ties" to the Chinese Government.** The Majority states that Huang is one of six individuals identified by the Majority who had "extensive ties" to the Chinese Government and then describes two activities to support its assertion: (1) that in 1993 Huang made a political contribution reimbursed by funds from Indonesia and escorted Shen Jueren to "two meetings" and that (2) the Committee obtained a "single piece of unverified information . . . that indicates that Huang himself may possibly have had a direct financial relationship with the PRC government." The first activity is based on public information and the factual inaccuracies of the Majority's assertions regarding these contributions and "meetings" are discussed above. The second activity highlighted by the Majority is based on non-public information. Indeed, the facts are derived from an unsubstantiated hearsay speculation gathered well after Haung's campaign finance activities were extensively publicized in the press.

- **O The Majority's statements about Maria Hsia also do not demonstrate "extensive ties" to the Chinese Government.** The Majority states that Hsia also had "extensive ties" to the Chinese Government and then lists several activities to support its assertion: (1) a long standing relationship with the Hsi Lai Temple in California, (2) contributions "laundered" through the Temple, (3) a trip to Taiwan organized by Hsia in 1989, (4) fundraising for the Democratic Party generally, (5) attendance at the Santa Monica "meeting" attended by Shen Jueren in 1993, (6) activities considered to constitute being an agent for the Chinese Government and (7) information that

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[137](...continued)
on this topic written by FBI agents on detail to the Committee do not suggest that additional funds came from abroad.

[138] The conclusions based on classified information, as stated in the Majority and Minority Reports, were not approved by any Executive Branch agency. Letter from George J. Tenet, Director, Central Intelligence Agency to Senator John Glenn, 2/18/98; Letter from George J. Tenet to Chairman Fred Thompson, 2/18/98; Letter from Robert M. Bryant, Deputy Director, FBI to Senator John Glenn, 2/25/98. See also Letter from Andrew Fois, Assistant Attorney General, Department of Justice to Chairman Fred Thompson, 7/11/97.

Hsia worked with Sioeng and Huang to identify donors for the Democratic Party. The first four activities, which are based solely on public information, demonstrate that Hsia has a long-standing relationship with Taiwan as well as with a Temple in California that is both wealthy and ardently pro-Taiwan. The fifth activity, also based on public information, is Hsia's attendance at a 1993 "meeting" with Shen Jureun. This meeting, however, was in fact a "DNC Reception/Dinner" in California attended by approximately 50 individuals.

Regarding the sixth activity mentioned by the Majority, it should be noted that the Committee received no information suggesting that Hsia's fundraising activities were connected to the Chinese Government. Indeed, the information characterized by the Majority from the classified information regarded some of Hsia's duties while an immigration consultant in California in the early to mid 1990s. In an affidavit submitted to the Committee, Hsia explains those duties, raising doubt regarding any improper ties to China. The allegations made by the Majority against an American citizen without a thorough analysis of the facts is troubling. The final activity of Hsia described by the Majority, number seven above, is again based on the same non-public information in which Huang is referred, which contained a hearsay speculation gathered well after allegations of fundraising improprieties against these individuals were publicized in the media.

- **The Majority's assertions that the Committee uncovered connections between the Riadys and a Chinese intelligence entity does not imply that the Riadys were involved in foreign spy or similar intelligence activities.** The Majority's conclusions about the Riady's business interests and their connections to Chinese intelligence sources is based primarily on public information presented to the Committee during its open proceedings.[139] The non-public information received by the Committee supports the conclusion that the Riady's business dealings may have involved a relationship with a Chinese intelligence entity, but does not support the implication that the Riadys were involved in foreign spy or other similar intelligence activity. The Minority agrees that the Riadys have ties to China but is unable to assess whether those ties are "extensive" or whether they are appropriate ties based primarily on business dealings within China.

- **The Majority Report's assertions regarding Charlie Trie are based solely on public information received by the Committee.** The Majority does not make any conclusion about Trie based on non-public information and the Minority agrees with this decision. For information about Trie, see Chapter 5 of the Minority Report.

CONCLUSION

[139] Thomas Hampson, 7/15/97, Hrg. pp. 67-73.

In describing the basic elements of the China Plan, the Majority provides information that the plan, for the most part, contemplated legitimate activities that have been undertaken by most other countries for years. However, in order to expand on the plan and its significance in the 1996 election cycle, the Majority makes a series of speculative assertions and conclusions. The Majority strings together a number of activities connected to several Asian countries, labels those countries the "Greater China Area," and implies or assumes that they "may or may not" be related to the China Plan or the Chinese Government. This is a necessary predicate for the Majority to establish because the activities the Majority lists in support of its theory have limited connections to China. Huang's contribution though a Lippo Group subsidiary in 1993 is connected to Indonesia; Trie's attempted contributions to the President's Legal Expense Trust was partially reimbursed by funds connected to Taiwan and Cambodia; Hsia's association with the Hsi Lai Temple is connected to Taiwan; and the Riadys are connected to Indonesia and have global business interests.

The incidents mentioned by the Majority in its China Connection chapter that actually show any possible connection to China are (1) alleged "meetings" with Shen Jueren in 1993; (2) Hsia's immigration work on behalf of Chinese nationals, (3) the Riady's business dealings with China Resources; (4) an event attended by Wang Jun[140] and (4) Sioeng's contacts and business interests in China. While these connections are important, they are greatly exaggerated by the Majority chapter. The Minority does not downplay the seriousness of the allegations of foreign connections that were exposed by the Committee's public hearings or closed proceedings. In fact, as stated in Chapter 2 of the Minority Report, the allegations and information raised legitimate questions about contributions from a number of countries making their way into the 1996 federal elections.

The Majority's treatment of the important issue of foreign influence in the 1996 election cycle and its highly questionable and damaging conclusions based on the information presented to the Committee were unfortunately driven by a conclusion looking for supporting information that was not available. Ultimately, the information presented to the Committee demonstrated a number of foreign contributions making their way into both political parties from businessmen and companies in a variety of Asian countries. The information submitted to the Committee to date, however, does not demonstrate that these troubling instances were connected to a grand scheme by the Chinese Government to influence our electoral process.

Response to Majority Report Chapter 19: "Charlie Trie and Ng Lap Seng's Laundered Contributions to the DNC"

In this chapter, the Majority analyzes Charlie Trie's contributions to the DNC and possible

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[140] The Majority repeats its characterization of Wang Jun as a "Chinese arms" dealer, despite the fact that the Committee was informed that Wang Jun is primarily associated with the Chinese investment company CITIC, which has a board of international advisors that includes prominent Americans. Staff interview with Robert Suettinger, Director, Asian Affairs, National Security Council, 6/3/97. The Minority does not make any conclusions about Wang Jun, but believes that this repeated characterization of Wang Jun by the Majority is, at best, simplistic.

involvement in contribution conduit schemes, and concludes that Trie used foreign funds supplied by Macao businessman Ng Lap Seng to pay for both his own contributions and to reimburse others for making contributions to the DNC. The Majority also implies that the DNC failed to return a conduit contribution by Xiping Wang.

The Minority generally agrees with the Majority's conclusions in this chapter, but notes that several facts have been omitted. For example, the Committee did not receive evidence that most of the money Trie raised for the DNC involved conduit funds. In addition, the Majority fails to mention that the DNC returned the Xiping Wang contribution to the U.S. Treasury.

O The Majority concludes that Trie used foreign funds supplied by Macao businessman Ng Lap Seng to pay for both his own contributions and to reimburse others for making contributions to the DNC. The Minority agrees with the Majority's conclusion, but disagrees that "most" of the money Trie raised for the DNC involved conduit funds; for example, there is no evidence that Trie reimbursed the $325,000 contribution by Yogesh Gandhi which comprises more than half of the funds attributed to Trie by the DNC.

O The Majority suggests that the DNC has not returned Xiping Wang's contribution. The Majority references Xiping Wang's testimony indicating that she was not reimbursed by the DNC for her contribution. However, the Majority fails to note that the DNC did in fact return the contribution -- it sent the money to the United States Treasury after failing in an attempt to locate Wang and it informed her attorney of that fact.[141]

Response to Majority Report Chapter 20 : "Charlie Trie's Contributions to the Presidential Legal Expense Trust"

In this chapter, the Majority analyzes Charlie Trie's fundraising efforts on behalf of the Presidential Legal Expense Trust ("PLET" or "Trust"). The Majority concludes that the donations were "highly questionable," may have been "coerced," and that the Trust acted improperly in how it investigated the donations, returned them, altered the Trust's accounting procedures, and delayed revealing the matter to the news media. The Majority further suggests that Trie's PLET fundraising efforts may have been linked to, among other things, his appointment to a Presidential Commission and to his obtaining an invitation for Wang Jun to a White House coffee.

The Majority's analysis of Trie's fundraising efforts for PLET is deeply flawed. The Majority chapter apparently double counts a number of the checks that Trie presented to the Trust; notes the bipartisan, impressive credentials of the trustees, but then ascribes partisan motives to their actions and; speculates on linkages between the PLET donations and Trie's Commission appointment, Wang Jun's coffee invitation.

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[141] Letter from DNC retained counsel, Judah Best, Debevoise & Plimpton, to R. Michael Haynes, Esq., attorney for Xiping Wang, 2/20/98.

O The Majority incorrectly states that Trie presented PLET with donations totaling $789,000. This figure apparently double counts a number of the checks. In Trie's first meeting with the Trust, the Trust declined to accept checks totaling $70,000, whose deficiencies Trie promised to correct. Bank records establish that the Trust actually deposited $380,000.[142] In Trie's second meeting, the Trust declined to accept checks which Trie said totaled $179,000. In a third meeting, the Trust declined to accept checks which Trie said totaled $150,000. The $380,000 bank deposit and the $150,000 figure Trie used in the final meeting result in a total of $530,000, almost a third less than the inflated figure used in the Majority chapter.

O The Majority acknowledges the bipartisan, impressive credentials of the Trustees, but then attributes partisan motives to the trustees. The Majority suggests that the trustees sought White House permission for the Trust's actions, while failing to acknowledge testimony by the Trust's executive director that the Trust never took direction from the White House. The Majority also suggests that the trustees hid the Trie-related donations to protect the President until after the election, while failing to acknowledge that the trustees' accounting decisions were made on a unanimous, bipartisan basis for substantive reasons. In short, the Majority unfairly impugns the motives of the respected, bipartisan trustees and fails to acknowledge that the Trust acted prudently and with restraint in declining to accept apparently eligible contributions.

O The Majority's analysis of a link between Trie's Commission appointment and the PLET donations fails to acknowledge the documentary evidence that Trie's appointment was finalized before he ever met with the Trust.[143] The facts do not establish any link between the PLET donations and Trie's Commission appointment, the Wang Jun invitation, or Trie letter. The Majority fails to cite any facts linking the PLET donations to the DNC's decision to invite Wang Jun to a White House coffee as Trie's guest. There is no evidence before the Committee that the DNC personnel involved in the coffee invitation. DNC officials David Mercer, Richard Sullivan, and Marvin Rosen were aware of the PLET donations. In addition, the White House personnel involved in responding to Trie's letter to the President have stated that they handled the letter routinely, using standard language they had developed to respond to a host of letters on the same subject.[144] The Majority chapter also fails to acknowledge testimony by FBI detailee Jerry Campane that Trie's letter was apparently prompted by one of his employees, had no connection to China, and no impact on

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[142] See Michael Cardozo, 7/30/97 Hrg., p. 7. See also Minority Chapter 5 on Trie.

[143] See Minority Chapter 5, including analysis of a 12/15/95 White House personnel office memorandum stating that "President Clinton has approved" Trie for the Commission appointment, and 2/5/96 White House legal counsel memorandum reporting successful completion of a background check and stating that the Commission appointment of Trie and another individual "may proceed." Trie first contacted the Trust on 3/20/96.

[144] See Minority Chapter 5; staff interview of Robert Suettinger, director, Asian affairs, National Security Council, 6/3/97.

U.S. policy.[145]

O The Majority labels the donations made by members of the Buddhist Ching Hai sect as "highly questionable" and, in part, "coerced," even though the majority of PLET donations met the Trust's requirements. The Majority fails to acknowledge the evidence that most of the donors appeared to be U.S. citizens who contributed voluntarily to help the President.[146] The recent indictment of Trie does not reference any questionable conduct in connection with the PLET donations.

Response to Majority Report Chapter 21: "The Saga of Roger Tamraz"

In this chapter, the Majority describes Tamraz's attempts to gain access to U. S. Government officials and concludes that in the spring of 1996, senior U.S. Government officials looked for "any reason" to support Tamraz's pipeline project based on his political contributions to the Democratic Party. The Majority's conclusion that Tamraz was successful at gaining access to U.S. Government officials is correct. Before Tamraz made political contributions to the Democratic Party, he met with several Government officials. After he made contributions, he attended several DNC events where senior Government officials were in attendance.

The Majority's chapter, while containing several statements and conclusions with which the Minority agrees, also contains omissions of significant evidence, assumptions not based on evidence, and conclusions contrary to the evidence.

O The Majority Report erroneously states that the DNC "pressure[d] NSC officials to change their position on the merits of Tamraz's Caspian Sea Pipeline." The Majority claims for the first time in its Report that the DNC did more than invite Tamraz to DNC events in the spring of 1996. The Majority now claims that the DNC and the White House actually pressured "NSC officials" to change U.S. Government policy regarding Tamraz's pipeline project. This assertion is contradicted by the facts.

The Majority provides absolutely no citations for its conclusion that seven months after U.S. policy was implemented,[147] senior Government officials were looking for "any reason" to support Tamraz's pipeline proposal. In fact, the evidence contradicts these assertions. Tamraz testified that

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[145] See Minority Chapter 5; Jerry Campane, 7/29/97 Hrg., pp. 58, 77-78, 95; staff interview of Robert Suettinger, director, Asian affairs, National Security Council, 6/3/97.

[146] See Minority Chapter 5; see also Michael Cardozo, 7/30/97 Hrg., p. 80.; Sally Schwartz deposition, 5/6/97, p. 144; 5/9/96 memorandum from Sally Schwartz to Michael Cardozo, Document 0078.

[147] U.S. policy was implemented in October of 1995 and Tamraz played no role in that policy. Sheila Heslin, 9/17/97 Hrg. pp. 5-6, 19-20, 28, 52, 72.

he mentioned his pipeline in March and April 1996 during a brief "introduction to the President" and "for about 30 seconds" to White House official Thomas ("Mack") McLarty, both at DNC events.[148] He testified that he described his pipeline proposal during those brief encounters as one that would supposedly bring peace to the region and jobs to Americans. In response, McLarty asked his Energy Department contact, Kyle Simpson, to provide him with information about the pipeline project.[149]

In addition, despite the assertions that this request was based on Tamraz's political contributions, both McLarty and Simpson testified unequivocally that they were not aware of Tamraz's political contributions at the time of this request nor did they mention political contributions to anyone.[150] Tamraz himself testified that he had never mentioned political contributions to anyone in the White House "ever."[151] The Majority ignores the fact that even Jack Carter, another Energy Department official, testified that Simpson's request for information about the pipeline was not, in any way, an attempt to tie alleged information about political contributions to U.S. Government support for, or meeting with, Tamraz.[152]

O Apparently recognizing that its conclusion is unsupported by the evidence, the Majority makes several questionable assertions in its attempt to support its assertion that U.S. officials

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[148] Mack McLarty deposition, 6/30/97, pp. 5-9; Memorandum for Jonathan Marks to Ann Ngo, 10/25/95; E-mail from Ira Sockowitz to Jonathan Marks, 10/27/95; Melissa Moss Deposition, 6/11/97, pp. 190-193.

[149] Thomas McLarty deposition, 6/30/97, p. 56; Kyle Simpson deposition, 6/25/97, p. 26. Simpson testified that requests for information about American companies and their projects are not uncommon. He explained that the U.S. Government sees value in U.S. companies participating in foreign projects although it is "not terribly particular" about which U.S. company it is if more than one is vying for a project. Kyle Simpson deposition, 6/25/97, p.54.

[150] Thomas McLarty deposition, 6/30/97, pp. 30. 56-57; Kyle Simpson, 9/18/97 Hrg. pp. 50-51; Kyle Simpson deposition, 6/25/97, pp. 43, 46-48.

[151] Roger Tamraz, 9/18/97 Hrg. p. 73.

[152] Jack Carter deposition, 6/23/97, pp. 44-45. The Majority relies on Carter's testimony to assert that political contributions motivate this request for information. However, the Majority at the same time asserts that Carter's recollection of other issues are not accurate. The Majority also attempts to bolster its decision to rely on Carter's testimony by stating that Carter's "handwritten notes of his encounter with Simpson corroborate that they discussed Tamraz and suggest also that Simpson made clear President Clinton's interest in the matter." The statement is correct only as far as it goes. The notes say "do background on Tamraz" and "consider distance" and "memo to Pres." The notes do <u>not</u> contain any figures or any mention of political contributions whatsoever. Exhibit 1199, p. JC-007 (Notes of Jack Carter, 4/3/96).

were "looking for any reason" to change U.S. policy in the spring of 1996.
The Majority unsuccessfully attempts to cast doubt on the testimony of other witnesses whose testimony was consistent. The Majority suggests that Simpson's testimony about his exchange with Carter may have been influenced by a call from McLarty and is less credible because he attended a fundraiser in his home town of Houston. Simpson's deposition and hearing testimony, however, demonstrate that these suggestions are false.[153] The Majority's allegations regarding a DNC-generated list of Tamraz's contributions also ignores the testimony of four witnesses. McLarty, Simpson and Carter all testified that they have never seen this list[154] and Tamraz himself testified that he never showed the list to anybody. Tamraz also testified that "nobody at the White House has ever talked to me about contributions, ever."[155] Finally, the Majority's speculation that Carter was acting at the behest of someone else fails to address the inaccuracies of the speculation, the contrary testimony by all other witnesses, and the documentary evidence that demonstrate what actually occurred. See Minority Chapter 30.

O The Majority Report's discussion of Tamraz's attempt to meet with the Vice President is incorrect. The Majority recounts that at "some point in August or early September 1995" the Vice President "expressed interest in Tamraz's pipeline and 'requested that Harut Sassounian set up a meeting about the proposal.' . . . and that "[a]s a result, Tamraz was invited to a breakfast with the Vice President scheduled for October 5, 1995." The Majority also states that Tamraz was disinvited from the coffee due to Sheila Heslin's efforts, but was "not unhappy" because he attended a private fundraiser on October 2, 1995 and sat at the head table with a number of individuals, including Vice President Gore. There are several factual misstatements in this version of events. Although relatively minor points, the Majority's treatment of this issue is the looseness with which the Majority handles the facts.

The Vice President's staff did receive a request that the Vice President meet with Sassounian and his associate, Roger Tamraz.[156] Contrary to the Majority Report, however, the response to this

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[153] Kyle Simpson deposition, 6/25/97, p. 83 (Simpson called McLarty in March of 1997 in response to an answer Simpson gave to a reporter that confused a 1995 meeting between Tamraz and Jack Carter and McLarty's later request for information on the pipeline); Kyle Simpson, 9/18/97, Hrg. pp. 135-38 (Simpson was given a complimentary seat at the fundraiser during his tenure at the Energy Department and did not raise money for the DNC while he was at the Department.)

[154] Thomas McLarty deposition, 6/30/97, p. 30; Kyle Simpson deposition, 6/25/97, p. 50; Jack Carter deposition, 6/23/97, p. 32.

[155] Roger Tamraz, 9/18/97, Hrg. p. 73.

[156] Exhibit 1127: Memorandum to the Vice President from Leon Fuerth, 9/13/95, EOP 45766-67. The Vice President received this request after meeting with Sassounian on August 8,
(continued...)

request was not to invite Tamraz "to a breakfast with the Vice President scheduled for October 5, 1995." Rather, the evidence establishes that the Vice President's staff responded by sending a memorandum to the Vice President on September 13, 1995, suggesting that he not agree to such a meeting.[157] And in fact, after that memorandum was sent, the Vice President's staff notified Sassounian and Tamraz that no meeting would be scheduled. No meeting was ever scheduled, nor did one occur.[158]

Tamraz's attendance at a October 2 private fundraising dinner was scheduled by the DNC and, upon discovering this, the Vice President's staff, not Heslin, caused Tamraz to be "disinvited" from the October 5, 1995 coffee. The DNC organized the fundraiser on October 2 and decided whom to invite.[159] On October 3, 1995, having learned that the DNC had invited Tamraz to an event the night before, the Vice President's staff faxed to the DNC a copy of Vice Presidential National Security Advisor Leon Fuerth's September 13, 1995 memorandum advising the Vice President not to meet with Tamraz, apparently to make clear to the DNC that it should not invite Tamraz to future events with the Vice President.[160] It was this fax that resulted in the DNC withdrawing Tamraz's invitation to the October 5, 1995 coffee.

Ultimately, the assertion that the Vice President or the DNC responded to a request for an official meeting by inviting Tamraz to the October 5 coffee is inaccurate.

O The Majority Report's description of the two phone calls between Bob of the CIA and DNC National Chairman Donald Fowler is incomplete. The Majority Report states that Fowler called Bob of the CIA twice, once on October 19, 1995 and again on December 13, 1996. The Majority states that "Fowler was closely engaged in efforts to contact Bob at the CIA" and that Fowler was not truthful in his testimony before the Committee when he denied having any memory of calling the CIA. The Majority analysis of these phone calls is incomplete.

First, the Majority's factual statement is correct as far as it goes, but evidence omitted -- most notable relevant references to Bob of the CIA's deposition -- casts serious doubt on the Majority's conclusion. Regarding the October phone call, the Majority ignores the testimony of Bob, who stated

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[156](...continued)
1995, not in "early September," as the Majority asserts. Exhibit 1126; Exhibit 1127; EOP 045766 and EOP 56535, 5639-40.

[157] Exhibit 1127: Memorandum to the Vice President from Leon Fuerth, 9/13/95, EOP 45766-67.

[158] EOP 25006-006; 250-4; Exhibit 1135.

[159] Exhibit 1136.

[160] Exhibit 1137 and Exhibit 1138.

that he called Fowler first on October 18, 1995 and left his name, and possibly his phone numbers, with a receptionist who answered the phone. Fowler returned the call the next day.[161] There is no explanation in the Majority report why they call Bob's name and phone number "classified" in the context of these calls.

Second, the Majority also ignores the fact that Bob testified that during both phone calls with Fowler his affiliation with the CIA was never mentioned. Bob testified that during the October phone call he was working undercover, that he never mentioned his CIA affiliation and was "not sure that Fowler [knew] who he [was] talking to."[162] Bob testified that during the December phone call he still could "not say for certain how [Fowler] knew who he was talking to because CIA was never mentioned."[163]

Finally, although the Majority criticizes Bob for lobbying the NSC's Sheila Heslin on issues regarding Tamraz, the Majority ignores the evidence that establishes that Bob's lobbying began in June 1995, long before Bob had his first contact with Fowler in October of 1995. In fact, according to Heslin, Bob's lobbying from June through October 1995 focused on getting Tamraz's proposal accepted by the U.S. Government and, accordingly, stopped after October of 1995, probably because Bob was aware that U.S. policy regarding the Caspian Sea pipeline had already been determined and Tamraz had already been excluded.[164] Fowler's contacts began after U.S. policy was already established and were focused on gaining information on Tamraz to permit him to attend DNC events. The Majority's conclusion that "Fowler was closely engaged in efforts to contact Bob at the CIA" is called into serious doubt when all the evidence about their two phone conversations is examined.

O The Majority Report incorrectly asserts that Tamraz was not able to obtain access to Republicans The Majority agrees that in the 1980s, Tamraz "gave enough money to become a Republican Eagle." However, the Majority states that "Tamraz received no response to his overtures from the Reagan Administration; he could not even gain access to the Reagan White House." Although Tamraz testified that he did not visit the Reagan White House, the evidence before the Committee shows that in 1985, the chairman of the Republican National Committee, Frank Fahrenkopf, apparently endorsed Tamraz for a position in the Reagan Administration by sending a letter to Robert Tuttle, Reagan's White House Personnel Director. The letter of endorsement was clearly based on Tamraz's political contributions to the Republican Party.[165] Tuttle responded to the

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[161] Bob of the CIA deposition, 7/11/97, p. 3.

[162] Bob of the CIA deposition, 7/11/97, p. 6.

[163] Bob of the CIA deposition, 7/11/97, p. 11.

[164] Sheila Heslin, 9/17/97, Hrg. p. 20; Staff interview with Sheila Heslin, 5/28/97.

[165] Roger Tamraz deposition, 5/13/97, p. 36; Roger Tamraz, 9/18/97 Hrg. p. 18; Senator
(continued...)

letter by requesting that the RNC forward Tamraz's résumé to the White House. Tamraz also testified that he received two letters from President Reagan thanking him for his contributions to the Republican Party[166] and that during the 1980s, he had access to high level CIA political appointees.[167] As late as 1997, Tamraz was offered meetings with Republican Senators in exchange for contributions to the Republican Party.[168]

Response to Majority Chapter 22: "DNC Efforts to Raise Money in the Indian Gaming Community"

In this chapter, the Majority purports to show that favorable government action with respect to Indian gaming issues was purchased by Native American tribes through campaign contributions to the DNC. The Majority fails, however, to offer proof in support of any allegedly improper quid pro quos, choosing instead to rely on innuendo and speculation.

O Contrary to assertions in the Majority report, contributions to Democrats by the Mashantucket Pequots had nothing to do with defeating a proposed 35 percent tax on Indian casinos. The Majority takes pains to suggest that the recent success of some Indian gaming interests has created a "perfect recipe for the solicitation of political contributions" because, inter alia, the government can pressure tribes through "its authority to impose a tax on gaming revenues." The Majority then details what it views as Democratic complicity in tribal efforts to avoid a 35 percent tax on casino profits which was proposed as part of the 1995 budget. In a supposed example of the abuse of Government authority, the Majority describes a meeting between DNC National Chairman Donald Fowler and representatives of the Mashantucket Pequot tribe of Connecticut on November 13, 1995. Prior to that meeting, A DNC staffer wrote a briefing memo for Fowler urging him to remind the tribal representatives that he had "played an active role in expressing" tribal opposition regarding the tax.

The Majority Report also notes that the Mashantucket Pequots donated at least $475,000 to the DNC and to Democratic campaigns between 1993 and 1996. (No attempt is made to show that the tribe made a contribution close in time to the November 13 meeting.) The Majority offers no additional evidence in support of its suggestion that the contributions made by the Mashantuckets to the DNC were the result of pressure applied through the Clinton Administration's "authority to impose a tax on gaming revenues." Relevant facts which the Majority declined to include in their

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[165](...continued)
Levin, 9/18/97 Hrg. pp. 64-44; Exhibit 1064M.

[166] Roger Tamraz deposition, 5/13/97, p. 40.

[167] Roger Tamraz deposition, 5/13/97, pp. 11-14, 123-24; Roger Tamraz, 9/18/97 Hrg. pp. 3-4.

[168] Roger Tamraz, Hrg. pp. 67, 169-170; Exhibits 1065 & 1066.

report include the following: (i) the 35 percent casino tax was proposed by Congressman Bill Archer, chairman of the House Ways and Means Committee;[169] (ii) the tax was vigorously opposed by prominent Republicans, including Senators Pete Domenici and John McCain.[170] Moreover, by the time of Fowler's November 13 meeting with the Mashantucket representatives, Republican senators had already publicly promised to oppose the casino tax in the House-Senate conference, thereby making it highly improbable that the tribe felt it necessary to contribute to Democratic causes in order to kill the casino tax. Indeed, the tribe has since confirmed that it viewed Fowler's attempt to take credit for the killing the tax as an exaggeration, since the tax died in a Republican-controlled Congress.[171] None of these inconvenient facts are mentioned by the Majority.

O The Majority incorrectly alleges that contributions by the Mashantucket Pequot influenced the Interior Department's approval of an expansion of the tribe's already-existing casino. The most regrettable part of the Majority's chapter suggests, in an echo of the controversy surrounding Interior Secretary Bruce Babbitt's supposed involvement in the Hudson casino matter, that Mashantucket contributions influenced Interior's decision to approve two separate expansions of the Mashantucket's existing casino over community opposition. The Majority offers no evidence, but simply notes that Interior approved the expansions and that the Mashantucket Pequots made contributions to the DNC. These contributions were not even contemporaneous with those actions, but simply occurred within the 1996 election cycle. Indeed, the Majority frankly acknowledges the its inferences are not substantial: "It is unknown if the DNC assisted the [Mashantucket] Pequots in convincing Interior to rule in their favor."

O The Majority unfairly attacks Interior Deputy Secretary John Garamendi and Assistant Secretary for Indian Affairs Kevin Gover for their tangential involvement in fundraising activities prior to assuming their government positions. The Majority takes Garamendi to task for having suggested to DNC officials that they solicit Mark Nichols, chief financial officer of the Cabazon Tribe of Mission Indians, for a political contribution. The Majority argues that it was "unseemly" for Garamendi to be involved in soliciting money from tribal leaders over whom he would eventually exercise authority in his government position, but the Majority does not even contend that Nichols was told that Garamendi had suggested him for a solicitation. As the Majority Report acknowledges, Nichols had already committed to raising $100,000 for Clinton Campaign before being contacted by the DNC. Ultimately, he donated a total of $125,000.

Even more attenuated is the Majority's criticism of Gover. Over two years before being sworn in as Assistant Secretary of Indian Affairs, Gover, along with several other attorneys acting as advocates for tribal leaders who had been invited to a meeting at the White House, wrote a memorandum to White House political directors pointing out that Indian tribes had contributed

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[169] New York Daily News, 6/9/97.

[170] Albuquerque Tribune, 11/3/95; The Santa Fe New Mexican, 10/28/95

[171] The Hartford Courant, 2/11/98.

monies in the past and asking that attention be paid to the Administration's political supporters. These facts failed to raise significant concern during Gover's confirmation hearing in November 1997.[172] During his hearing testimony, none of which is mentioned in the Majority Report, Gover explained that he had long advocated greater political involvement by American Indians. "I believe that tribes need to become more involved in national politics. I have preached that message."[173] Gover explained that he also worked on several grassroots advertising and get-out-the-vote drives; the type of activities which he believed helped to explain why tribes with only 9 percent of U.S. population cast 14 percent of the vote in the 1996 presidential election.[174] Following his testimony, the Chairman of the Senate Indian Affairs Committee, Ben Nighthorse Campbell, publicly confirmed his continued support for Gover.[175] Gover's nomination was approved by the Committee and quickly approved by the Senate without debate, under prodding from another supporter on that Committee, Senator Pete Domenici.[176] Whatever significance the Majority ascribes to Gover's past activities, they posed no obstacle to his confirmation by the Republican-controlled Senate.

Response to Majority Chapter 23: "Hudson Casino"

In this chapter, the Majority examines the circumstances surrounding the Interior Department's denial of an application by three Indian tribes and a gambling company to take land near Hudson, Wisconsin, into trust for the purposes of establishing a casino. The Majority draws the limited conclusion that "[t]here is strong circumstantial evidence" that Interior's decision in the Hudson case "was caused in large part by improper political considerations, including the promise of political contributions from opposition tribes." This conclusion is not fully supported. The Majority Report fails to acknowledge key facts about the Hudson casino proposal and mischaracterizes many others.

O Contrary to assertions by the Majority, Galaxy Gaming, not the applicant tribes, was the moving force behind the Hudson casino application. The Hudson casino application was made by an entity known as the Four Feathers Partnership, which consisted of three Indian tribes and another partnership known as the Galaxy Gaming Company, headed by Fred Havenick.[177] This Florida-based gambling company owned a money-losing dog track in Hudson, Wisconsin, and hoped to salvage that investment by establishing a casino on the same site in partnership with the Indian tribes. Galaxy Gaming is a sophisticated, politically savvy entity with considerable resources that

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[172] Albuquerque Journal, 10/31/97.

[173] Albuquerque Journal, 10/31/97.

[174] Albuquerque Journal, 10/31/97; The Santa Fe New Mexican, 11/10/97.

[175] Albuquerque Journal, 10/31/97.

[176] The Santa Fe New Mexican, 11/10/97.

[177] Washington Post, 12/21/97.

spent significant amounts on lobbying government officials, including its retention of Paul Eckstein, a lobbyist with seemingly little of value to offer other than his willingness to prevail on his personal friendship with Interior Secretary Bruce Babbitt to secure a result for his new clients. In 1993, Galaxy Gaming spent more money on lobbying in Wisconsin -- over $60,000 -- than any other gambling entity.[178] Given these facts, the Majority's insistence on characterizing the Hudson casino matter as a battle between "impoverished" Indian tribes and wealthy lobbyists hired by the opposing tribes is unfair and disingenuous.

O The Majority Report unfairly omits key facts justifying Interior's denial of the application, such as the distance between the applicants' reservations and the proposed casino site. One of the most controversial aspects of the Hudson casino application was the proposal to take into trust land far removed from the reservations of the applicant tribes. Although the Majority Report never mentions it, the fact that the reservations of the applicant tribes were between 80 and 190 miles away from Hudson, Wisconsin, was critical to an understanding of Interior's decision. Different, and far stricter, criteria apply when an Indian tribe petitions the government to take off-reservation land in someone else's community into trust for gambling operations. As Secretary Babbitt testified in the hearings before the House Committee on Government Reform and Oversight, of the nine off-reservation applications initially approved by the regional Bureau of Indian Affairs office since the Indian Gaming Regulatory Act was passed in 1988, only one led to the establishment of a casino.[179] In that case, unlike the casino proposed in Hudson, the local community supported the application.[180] One of these denials occurred during the Bush Administration.[181]

O The Majority Report unfairly omits key facts justifying Interior's denial of the application, such as the depth and intensity of local opposition to the casino. Although the Majority makes passing references to the opposition by persons on the local, state, and federal levels, it is suggested that whatever local opposition existed was actually generated by the opposing tribe's lobbying activities. Although lobbying certainly occurred on both sides, it is unrealistic to suggest that these lobbying efforts were primarily responsible for the widespread opposition to the proposed Hudson casino. The Committee's investigation found overwhelming evidence of legitimate opposition to the casino expressed by both Republican and Democratic elected officials on the ground that the casino would be detrimental to the community. The opposition was widespread, intense, and bipartisan. See Minority Chapter 37.

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[178] Chicago Tribune, 8/5/93.

[179] Testimony of Secretary Babbitt before the House Government Reform and Oversight Committee, 1/29/98, p. 20.

[180] Testimony of Secretary Babbitt before the House Government Reform and Oversight Committee, 1/29/98, p. 20.

[181] Testimony of Secretary Babbitt before the House Government Reform and Oversight Committee, 1/29/98, p. 20.

O The Majority Report omits key facts justifying Interior's denial of the application, including the fact that Interior never "reversed course" on the Hudson casino application. The Majority seriously mischaracterizes the record by suggesting that Interior was initially inclined to approve the Hudson casino application, but changed its mind after being subjected to "pressure" (through some mechanism which the Majority is not able to identify). As the career staff at Interior have testified, they never recommended approval of the Hudson casino proposal. The Majority makes much of the fact that the local Bureau of Indian Affairs office approved the application, but fails to acknowledge that all such applications are reviewed by Interior staff at headquarters -- pursuant to sound policy established by the Bush Administration -- to ensure consistent application of the law.[182] The Majority treats the differing conclusions reached by the local BIA office and the Interior Department in Washington as a matter of grave suspicion, but refuses to acknowledge that the Interior Department has often rejected local BIA recommendations to approve applications for off-reservation gambling.[183]

Turning to the specifics of the Report, the Majority twists the record in asserting that George Skibine, and Interior Department official, "favored granting the Hudson application." This is a mischaracterization of Skibine's testimony. Skibine first formulated his recommendation in June 1995, based on the record, and his recommendation was that the application be denied.[184] The only issue of debate in the weeks leading up to the issuance of the decision was the statutory basis on which to rely in denying the application, not on whether to approve it.[185]

The Majority relies heavily on the two memos prepared by Tom Hartmann, a financial analyst, which concluded that, notwithstanding the intense local opposition, there was insufficient evidence in the record to support a finding that the proposed casino would be "detrimental to the surrounding community." Skibine and Hartmann both testified, however, that Skibine, the deciding official, never agreed with Hartmann's view expressed in these memoranda and never adopted that analysis.[186] Skibine thought the application should be denied and he initially recommended denial based on the Indian Reorganization Act.[187]

O Contrary to the Majority's claim, "reopening" the administrative record was not an

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[182] Testimony of Secretary Babbitt before the House Government Reform and Oversight Committee, 1/29/98, p. 20.

[183] Testimony of Secretary Babbitt before the House Government Reform and Oversight Committee, 1/29/98, p. 20.

[184] George Tallchief Skibine deposition, 11/17/97, pp. 49, 61-65, 70.

[185] George Tallchief Skibine deposition, 11/17/97, p. 70.

[186] George Tallchief Skibine deposition, 11/17/97, pp. 61-62.

[187] George Tallchief Skibine deposition, 11/17/97, p. 151.

unusual step. The Majority views with dark suspicion the agreement by two Interior officials, in response to complaints from representatives of the opposing tribes during a meeting in February 1995, to allow those tribes to submit supplemental factual information to Interior concerning the extent to which the proposed casino would hurt their existing casinos. The Majority Report opines, without factual support, that this "reopening" of the record was "an unusual step." In fact, Interior officials have testified that there was no "reopening" of the record in light of the fact that it was never formally "closed" prior to the issuance of the decision. Unlike, for example, agency rule-making, there is no formal deadline for the submission of materials relevant to a quasi-adjudicative decision like the trust application decision. Skibine has testified that, in allowing the opposing tribes to submit additional information, he simply allowed persons with relevant information to present that information to the Department.[188] Indeed, in an order unmentioned by the Majority Report, United States District Court Judge Barbara Crabb rejected the applicant tribes' claims in their lawsuit against Interior that this action was inappropriate.[189] Instead, Judge Crabb held that Interior's decision to accept the additional information was especially justified "when both the town of Troy and city of Hudson had passed resolutions opposing the project during the period between the area office's submission of its report and the February 8 meeting." There was nothing improper about Interior's decision to consider this additional information.[190]

O The Majority Report mischaracterizes the testimony of Paul Eckstein. In its Report, the Majority states that Paul Eckstein testified that Secretary Babbitt "made comments suggesting that Interior had come under political pressure to deny the application." In fact, Eckstein testified Secretary Babbitt denied his request for a delay of the issuance of the decision on the grounds that "Harold Ickes had directed him to issue the decision that day." (Ickes was then Deputy Chief of Staff at the White House.) In his deposition and in his testimony to the Committee, Eckstein was clear that he understood the comment that he ascribed to Babbitt to relate only to the timing, not the substance, of Interior's decision. Indeed, Eckstein agreed that he had "no basis" to believe that anyone from the White House had "directed the substance of the decision denying the application."[191] The Majority Report unfairly draws inferences from Eckstein's testimony without ever acknowledging that Eckstein himself did not draw those same inferences from the remarks he ascribed to Babbitt.

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[188] George Tallchief Skibine deposition, 11/17/97, p. 21 (""[T]his is an informal decision-making process. So we don't have any regulations. There are no guidelines that apply to Central Office action. There are no deadlines.")

[189] Sokaogon Chippewa Community, et al. v. Bruce C. Babbitt, et al., 929 F. Supp. 1165, 1183 (W.D. Wisc. 1996).

[190] Sokaogon Chippewa Community, et al. v. Bruce C. Babbitt, et al., 929 F. Supp. 1165, 1183 (W.D. Wisc. 1996).

[191] Paul Eckstein Deposition, 9/30/97, pp. 90-91.

Response to Majority Chapter 24: "The Cheyenne Arapaho Tribes: The Quest for the Fort Reno Lands"

This Majority chapter characterizes the decision by the Cheyenne-Arapaho Tribes to contribute to the DNC as a "sordid" chapter in the DNC's 1996 fundraising efforts, and a "cynical political exploitation." According to the Majority:

> Democratic fund-raisers led the tribes, who were politically naive, to believe that making a large contribution would secure them the long-sought Fort Reno lands. The tribes made contributions to the DNC, received encouragement about their land claim from many quarters, including the President himself, but ultimately received nothing. The tribes then fell into the hands of a series of Democratic operators, who attempted to pick their pockets for legal fees, land development fees, and additional contributions.

The Majority's conclusions are based on a series of misleading mischaracterizations, misstatements of facts, and unwarranted inferences.

O The Majority makes misstatements of fact and creates misleading impressions in its characterization of the source of the money used by the tribes to contribute to the DNC. While it correctly states that the money was derived from the operation of a bingo hall, it incorrectly describes the role of the tribes with respect to the hall. The Majority states, "Although the hall was not profitable -- it has incurred millions in losses since opening -- the C/A receive a monthly $5,000 payment from the entity that manages the bingo hall on their behalf." This statement leaves two false impressions: 1) that the tribes had contracted out to an outside entity to manage the bingo hall for them, and 2) that the tribes were losing millions of dollars as a result of the bingo hall operations. In fact, the tribes did not hold the gambling license for the bingo hall. They merely managed the hall for the licensee, Southwest Casino and Hotel Corporation, and received a $5,000 monthly payment for this service. Any losses which might have resulted from the bingo hall operations would have been incurred by Southwest Casino, not by the Tribes. The money which the Tribes derived from the bingo hall operation was thus money which came to them free and clear and not as the result of a money-losing tribal business venture.

The Majority Report states, "[W]hile the account from which the money is drawn does not appear to be a specially-earmarked welfare fund, it is frequently used to pay for such things as funeral costs, heating bills, and general assistance for needy tribal members." While that may be the case today, that was not the case at the time the tribes made the decision to contribute to the DNC. The Majority ignores the fact that the chairman and secretary of the tribes' business committee, as well as the chairman of its business development corporation, all denied that the tribes had a welfare fund

at the time they made their contribution.[192] The Majority also ignores the fact that Tribes' attorney had informed the Committee staff that the money from the bingo hall operations had been placed into certificates of deposit and had not been used previously for any other purposes.[193]

O The Majority falsely states that Democratic fund-raisers took advantage of the Tribes' political naivete, leading them to believe that making large contributions would secure them the long-sought Fort Reno Lands. Not only is this statement incorrect, but the basic premise upon which it rests -- that the tribes were politically naive -- is inaccurate. By the time the Cheyenne-Arapaho made their decision to contribute to the DNC in 1996, they were politically active tribes which had been lobbying at the local, state, and national levels for years. Their representatives had made numerous trips to Washington to meet with members of Congress and officials from the Departments of Interior, Agriculture, and Justice. They had hired Patton, Boggs & Blow, an influential Washington lobbying firm, to argue their case. They had held protest rallies and had spent over $100,000 on political advertising targeting politicians they saw as opposed to their interests. Their decision to contribute to the DNC was a calculated decision to take their political involvement to another level, not the result of political naivete.

The Majority's contention that someone at the DNC promised the tribes the return of their lands in exchange for a large contribution is unsupported by any facts. The tribes made their decision to contribute before they had even spoken to anyone at the DNC.[194] The Majority cites no direct evidence to show that Jason McIntosh, Terry McAuliffe, or anyone associated with the DNC or the Clinton/Gore campaign ever promised the tribes the return of the Fort Reno lands in exchange for their contribution. Furthermore, the Majority ignores the unequivocal statement of Tyler Todd, the chairman of the tribes' business development corporation, who said, "We didn't ask for anything and we weren't promised anything."[195]

The Majority's approach to this issue is curious. The Majority seems to imply that the tribes were somehow taken advantage of because they received no direct, tangible policy benefit from their contribution. At the outset of the chapter on the tribes, the Majority states, "The tribes made contributions to the DNC, received encouragement about their land claim from many quarters,

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[192] Staff interview with Charles Surveyor, 8/22/97; Staff interview Tyler Todd, 8/21/97. See also, Daily Oklahoman, 3/11/97.

[193] Staff interview with Barry Coburn, 9/16/97.

[194] The tribes discussed the idea of contributing to the DNC in meetings of their business committee on February 12, 1996, and April 30, 1996. Staff interview with Tyler Todd, 8/21/97 and Staff interview with Barry Coburn, 9/16/97. They informed Michael Turpen, whom they had hired as a lobbyist, of their decision in May 1996, whereupon Turpen put the tribes in touch with Jason McIntosh of the DNC. Staff interview of Barry Coburn, 9/21/97.

[195] Daily Oklahoman, 3/11/97.

including the President himself, but ultimately received nothing." The chapter then concludes by stating, "They [the tribes] have nothing to show for their $107,000 in contributions, except memories of a Presidential luncheon and the hollow echoes of "encouragement" to contribute given them along the way." Just what the Majority believes the tribes should have "received" or should "have to show" for their contribution is not clear. Had the tribes received some direct policy benefit in exchange for their contribution, would that not have amounted to an illegal quid pro quo? The fact that the tribes received nothing for their contribution is therefore not an indication that they were taken advantage of, but rather an indication that their dealings with the DNC and the Administration were wholly legal and appropriate.

O The Majority falsely states that the tribes fell into the hands of a series of Democratic operators, who attempted to pick their pockets for legal fees, land development fees, and additional contributions. The Majority castigates Nathan Landow and Peter Knight for their attempts to negotiate a contract with the tribes prior to agreeing to undertake work on their behalf. It should be noted that it was the tribes who approached Landow and Knight for their services, not vice-versa. From the beginning of their dealings with the tribes, both Landow and Knight's firm were clear as to their fees and the need for a written contract. Their actions in this regard were nothing more than standard business practices. The Majority presents no evidence either that the proposed contract terms were onerous or that the amount of the fees was excessive in comparison to similar arrangements. Indeed, both Landow and Knight's firm were aware that their contracts would require the approval of the Bureau of Indian Affairs, and they drafted the contracts to conform to the requirements of the Bureau of Indian Affairs.

It appears that the Majority's main reason for casting Landow and Knight in a negative light is the fact that they were "Democratic operators." While it is true than Landow and Knight had ties to the DNC and the Clinton/Gore campaign, their dealings with the tribes had nothing to do with those entities. Indeed, the Majority presents no evidence that Landow or Knight at any time in their dealings with the tribes acted at the behest of, on behalf of, or even with the knowledge of the DNC or the Clinton campaign. The opprobrium which the Majority has cast upon these individuals by comparing them to pickpockets is unwarranted and unworthy of this Committee.

Response to Majority Chapter 25: The Offer of R. Warren Meddoff

In this chapter, the Majority discusses Florida businessman Warren Meddoff who, shortly before the 1996 election, approached President Clinton at a Florida fundraiser concerning a possible $5 million donation to the President's campaign. The Majority concludes that White House Deputy Chief of Staff Harold Ickes's conduct in faxing Meddoff a memorandum listing several possible tax-exempt organizations to receive the contribution "was an attempt to circumvent both the federal general election contribution prohibition and spending limits imposed on campaigns receiving public financing." At one point, the Majority states that Ickes subsequently told Meddoff to "shred" this memorandum, but later backs away from this assertion and reaches no conclusion as to whether Ickes made this statement. Nevertheless, the Majority insinuates that Ickes's conduct amounted to an obstruction of justice.

The Majority's conclusions are based on the testimony of a witness who lacks credibility and are also contrary to any reading of the law.

O The Majority's allegations of circumvention of campaign finance laws and improper coordination concerning Harold Ickes are contrary to the Majority's own reading of the law. The Minority disagrees with the Majority's contention that Ickes attempted to circumvent campaign finance laws. The Minority found that Ickes would have been well-advised to refrain from providing the information contained in the fax to a potential contributor, in order to avoid any appearance of improper coordination. Nevertheless, the simple fact that Ickes identified nonprofit groups in response to a desire by a potential contributor to make a tax-deductible contribution does not establish that improper coordination occurred. As the Majority has recognized in its Report, current law does not prohibit a federal government employee or party official from directing contributions to tax-exempt organizations.[196] And as the Majority has also recognized, the Committee did not determine whether nonprofit organizations Vote Now '96, the National Coalition of Black Voter Participation, and Defeat 209 communicated with Clinton/Gore campaign officials about the steering of donors to these entities or whether these organizations knew that Ickes was referring donors to them for the purpose of advancing the President's re-election. If such communications had occurred, any contributions might be considered illegal. Moreover, the Republican National Committee ("RNC") routinely engaged in far more troubling activity than this. As admitted by the Majority in its Report (and as discussed more throughly in the Minority Report), the RNC "routinely supported nonprofit groups that it considered sympathetic to its cause. This support principally took the form of financial contributions directly from the RNC or from funds raised by RNC officials."[197] The Majority concludes, however, that there was nothing illegal or improper about these activities. To draw such a conclusion, while at the same time concluding that Ickes's conduct was inappropriate, is disingenuous at best.

O The Majority's discussion of Meddoff's allegations omits critical evidence. As discussed more fully in Minority Report Chapter 17, the Minority found that the evidence before the Committee raised grave doubts about Meddoff's credibility given the questionable nature of his business dealings and associates, his apparent personal agenda in appearing before the Committee, and his apparent attempt at bribery in connection with a previous proposed contribution. Meddoff's testimony that Ickes told him to shred the memorandum, considered in this context, lacks credibility.

O The Majority claims that Ickes potentially violated the law by his use of White House staff and equipment to send the fax to Meddoff when, in fact, the evidence on this point is not clear. In a footnote, the Majority states, "If Ickes solicited Meddoff for contributions, it would

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[196] The Majority asserts that Congress "would do well to examine whether it should continue to be legal for campaigns to refer donors to nonprofit entities that, for all intents and purposes, will further the campaign's election . . . ." Majority Report Chapter 25.

[197] Majority Report Chapter 28; see Minority Report Chapters 10 and 11-13. These nonprofit groups included Americans for Tax Reform and Coalition for Our Children's Future.

appear that he violated criminal provisions of the Hatch Act, specifically 5 U.S.C. § 7323(b) which prohibits a federal employee from soliciting political contributions from any location at any time." (Majority Report Chapter 25, n.54) Although this was not a "solicitation or a "political contribution," the Majority seems to suggest that the fax was nonetheless improper. The Minority disagrees with this suggestion, because, as the Minority points out in Chapter 24 of its Report, the White House Office of Political Affairs is permitted to engage in certain types of political activity. That office maintains a separate fax machine for its political work.[198]

Response to Majority Chapter 26: "White House, DNC and Clinton-Gore Campaign Fundraising Efforts Involving the International Brotherhood of Teamsters"

In this chapter, the Majority makes serious allegations regarding the Teamsters' activities during the 1996 election cycle. Specifically, the Majority alleges that the Committee's investigative efforts into relevant activities of the Teamsters were substantially limited by several factors, including the refusal by subpoenaed entities to produce documents, individuals' assertions of their Fifth Amendment rights in refusing to testify, witnesses' providing "inaccurate or misleading testimony," and the Committee's agreement to limit the scope of the investigation because of the Southern District of New York U.S. Attorney's investigation. The Majority alleges that Harold Ickes and other Administration officials, in possible violation of federal law, provided assistance to the Teamsters on policy matters "with the intention of enticing" the Teamsters to participate in Democratic campaigns and causes. The Majority also alleges that DNC officials participated in a contribution swap scheme in which they solicited funds for Ron Carey's reelection campaign of Ron Carey, who was then president of the Teamsters Union.

The Majority's analysis is based on misstatements of facts and its conclusions are unsupported by the evidence.

O In its Report, the Majority perpetuates its admittedly inaccurate assertion that the President was involved in or had knowledge of Martin Davis's improper activities. At the October 8, 1997 hearing, Chairman Thompson falsely implied that the President was involved with the Teamsters swap proposal. The Chairman stated:

> The concern is that, according to the Southern District of New York, you have a conspiracy in May and June of 1996 for this contribution swap, the Democratic National Committee and the Teamsters Union. The people involved in that met with the President on June 17. Then four days later, the decision was made to implement at least part of the plan, apparently, by sending $236,000 to state Democratic parties. [Emphasis added.][199]

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[198] Jennifer O'Connor deposition, 10/6/97, pp. 149-50.

[199] Chairman Thompson, 10/8/97 Hrg., pp. 25-26.

During later testimony, however, it was established that the Chairman was incorrect when he suggested that there was a private meeting with the President at which the Teamsters swap proposal was discussed. The evidence presented at the hearing established that the allegedly "private meeting" between the President and the Teamsters consultants who later pleaded guilty to fraudulent conduct was actually a luncheon that was attended by numerous people.[200] After receiving the evidence, the Chairman acknowledged that there was no private meeting and that all of the lunch attendees lunch entered the White House at approximately the same time.[201]

Astonishingly, the Majority repeats these same false allegations against the President in its Report, stating: "Because the Committee has not been unable to speak with Davis, it cannot determine whether Davis ever discussed Teamster fundraising or Carey's campaign with the President." The Majority's use of random speculation and discredited evidence to make allegations again the President is both reckless and unworthy of a Senate Committee.

O The Majority wrongly charges that the Committee's investigation of possible connections between the 1996 election of officers for the International Brotherhood of Teamsters ("IBT") and the 1996 federal elections was "substantially limited" because the AFL-CIO did not cooperate with the Committee's investigation. The Majority claims the AFL-CIO "[r]efused to produce documents reflecting dealings with the White House, DNC and Clinton-Gore campaigns" and "[r]efused to produce relevant materials from the files of Political Director Steven Rosenthal, Secretary-Treasurer Richard Trumka, President John Sweeney, and other individuals involved in AFL-CIO campaign-related activities." The Majority's claim is wrong, and it is misleading. As is plain from its timing — May 1997 — and content, the Committee's document subpoena to the AFL-CIO was not related to allegations about the Carey campaign — allegations that in fact surfaced long after the document subpoena to the AFL-CIO was issued by the Committee. The Committee's subpoena issued to the AFL-CIO covered the entire range of the AFL-CIO's involvement in electoral and legislative politics; it did not target matters related to the Teamsters or the Carey campaign. Further, the "swap schemes" referred to by the Majority were not revealed until long after May 23, the date the Committee issued the subpoena to the AFL-CIO. The circumstances of the AFL-CIO's objections addressed to the document subpoena are described in the Minority's response to Majority Chapter 23 and are entirely unrelated to allegations of wrongdoing in the Teamsters election.

O The Majority Report falsely states the AFL-CIO Secretary-Treasurer Richard Trumka "refused to comply" with a deposition subpoena issued by the Committee. Again, the Majority's statements are misleading. As explained in the Minority's response to Majority Chapter 27, Trumka did not "refus[e] to comply" with the Committee's deposition subpoena. Counsel for the AFL-CIO, after being told by the Majority Chief Counsel on Thursday, September 18, 1997, that there would be no further depositions, received three faxed deposition subpoenas on the evening of Friday,

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[200] 10/8/97 Hrg., pp. 38-39; Exhibit 2396.

[201] Chairman Thompson, 10/8/97 Hrg., pp. 166-67.

September 19. One of the depositions requested was Trumka's and it was scheduled for 9:00 on the very next Monday, September 22 — a day when Majority counsel knew the witnesses in question would be out of town at the AFL-CIO Convention. Counsel for the AFL-CIO wrote to the Committee explaining why Trumka and other witnesses could not appear, but did not refuse to produce the witnesses on another date.[202]

O The Majority incorrectly claims that its investigation of the "contribution swap" allegation was limited. The Majority's investigation was not limited. As the Majority itself acknowledges it conducted 15 depositions and "dozens of interviews relating to [the] allegations" involved in the contribution swap scheme. The Majority also conducted a day of hearings regarding these allegations. Moreover, contrary to the Majority's claim, thousands of pages of documents related to the Teamsters issues that the Majority was investigating were produced by the Teamsters, the DNC, the White House, Vote Now '96, and the law firm that represented Judith Vazquez. Similarly, contrary to the Majority's assertion, no witness asserted his or her Fifth Amendment privilege and refused to appear for a deposition or hearing relating to the Teamsters issues. Moreover, as detailed in the Minority Chapter 18, on the Teamsters allegations and as more thoroughly discussed below, the Majority's claim that witnesses provided "inaccurate or misleading" testimony is not supported. Finally, while the U.S. Attorney's office did request that the Committee not subpoena several witnesses, most of these witnesses have given testimony or statements that are available to the Committee (and, indeed, these materials are cited in both the Majority and Minority Reports), and this "limitation" did not impede the Majority's investigation.

O The Majority claims without sufficient evidence that there is a suggestion that the Administration took steps to improperly "benefit the Teamsters" in connection with the Diamond Walnut strike. While it would not have been illegal or inappropriate for the Administration to get involved in the Diamond Walnut strike, there is no evidence that the Administration in fact took steps that benefitted the Teamsters with respect to this strike. To the contrary, although the Majority Report omits mention of this fact, the Diamond Walnut strike is still ongoing -- no Administration action known to the Minority assisted the Teamsters with the resolution of their dispute with Diamond Walnut.

O The Majority presents a slanted version of the facts surrounding the "contribution swap" scheme. The Majority falsely implies that the idea for the so-called "contribution swap" scheme originated with the DNC which was concerned because the Teamsters were not "participating in federal electoral politics at the same extraordinary level as it had in the 1992 campaign." The Report states, after discussing this purported decrease in political participation, "In May or June 1996, a plan for a 'contribution-swap scheme' between the DNC and the Teamsters was conceived. It was relatively simple: the DNC agreed to find a $100,000 donor for Ron Carey's campaign for reelection as Teamsters president; in exchange, the Teamsters' PAC director, Bill Hamilton, would steer approximately $1 million to state Democratic parties." As the Majority well knows based on

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[202] See Letter from Robert M. Weinberg and Robert F. Muse to Michael J. Madigan, Chief Counsel, and Philip Perry, Majority Counsel, Sept. 22, 1997.

the evidence before the Committee, the idea for the scheme was entirely that of Martin Davis, Ron Carey's election campaign consultant, and it was Davis who contacted Terry McAuliffe. The Majority's implication that the DNC broached the subject with the Teamsters as part of the DNC's plan to raise money from the Teamsters is not based on the evidence.

Throughout the Majority Report, the Majority also presents a slanted version of the so-called scheme by ignoring key deposition testimony from credible witnesses regarding the scheme. For example, its chapter does not contain a single citation to the deposition of Laura Hartigan, whose testimony confirmed that of DNC Finance Director Richard Sullivan. She stated that it was never her understanding that Davis was suggesting some sort of quid pro quo or a nexus between raising money for Carey and raising funds for the DNC.[203]

O The Majority fails to prove allegations that testimony by Democratic witnesses was false or misleading. As discussed more thoroughly in Minority Report Chapter 18, the Minority disagrees with the Majority's contention that Richard Sullivan provided misleading and inaccurate testimony to the Committee. Sullivan was forthcoming to the Committee about the relevant circumstances examined by the Committee surrounding Judith Vazquez's potential contribution. The Minority also disagrees with the claim that White House Deputy Chief of Staff Harold Ickes was not truthful to the Committee. Ickes testified that he "discussed Diamond Walnut with Jennifer" O'Connor, his assistant,[204] and the Majority failed to ask him about the substance of those conversations.[205] The Majority then claims that Ickes was not forthcoming based on O'Connor's description of that conversation -- her testimony that she and Ickes discussed whether Mickey Kantor contacted Diamond Walnut. Moreover, as Ickes testified, the Administration did not "do [anything] regarding the Diamond Walnut strike."[206] The Administration did not intervene in this strike, and the strike is still underway, indicating that the Teamsters were not benefitted by any Administration action relating to this strike.

Response to Majority Report Chapter 27: "Compliance by Non-Profit Groups with Committee Subpoenas"

The Majority criticizes a number of tax-exempt groups, ranging from the Christian Coalition to the AFL-CIO, for refusing to comply with Committee subpoenas. It alleges that this pattern of noncompliance began in August 1997, when the AFL-CIO announced that it would not comply with

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[203] Laura Hartigan deposition, 9/16/97, pp. 24, 20.

[204] Harold Ickes deposition, 9/22/97, p. 133.

[205] The issue of Administration policy with regard to Diamond Walnut was not fully explored during Ickes's deposition due, in part, to objections properly posed by Ickes's attorneys on the proper scope of the deposition.

[206] Harold Ickes deposition, 9/22/97, p. 141.

a document subpoena. The Majority also contends that the subpoenas issued by the Committee to these groups could not have been enforced because the Minority would have blocked enforcement efforts and because the Committee's mandate expired on December 31, 1997. Finally, the Majority complains that because of the noncompliance of subpoenaed groups, it was "unable to draw any meaningful conclusions about the activities of nonprofit groups during the 1996 elections."

O The Majority wrongly accuses the AFL-CIO of "deliberately adopt[ing] an obstructionist strategy designed to thwart production" of documents and witnesses to the Committee in the "cynical hope of escaping scrutiny…" To the contrary, the AFL-CIO's responses to the Committee's document and deposition subpoenas were based on legal positions that were presented to the Committee in a manner well within the procedural rules set forth both by this Committee and by the full Senate. The AFL-CIO was presented with an extraordinarily broad subpoena, requesting 48 separate categories of documents that reached deeply into nearly every aspect of the AFL-CIO's internal organization and structure and, particularly, into its participation in the political system. This subpoena differed markedly in its breadth and scope from any other subpoena issued by the Committee. The AFL-CIO repeatedly informed the Committee of its concerns regarding the breadth and scope of these demands[207] and, after an initial review of some of the millions of documents demanded by the subpoena, the AFL-CIO provided the Committee with a lengthy, detailed statement of its legal grounds for objection.[208]

O The Majority falsely asserts that the document subpoena directed to the AFL-CIO was issued because of "press accounts link[ing] the leadership of the AFL-CIO with an illegal conspiracy to funnel general treasury funds from the International Brotherhood of Teamsters ("IBT") to the reelection campaign of IBT President Ron Carey." This claim is untrue. The document subpoena was issued in May 1997 — long before the IBT election was overturned; there were at that time no "press accounts" linking the AFL-CIO or its leadership to alleged wrongdoing in the Carey campaign. Further, the subpoena did not focus on any connection between the AFL-CIO and the IBT, or make any requests for documents related to the Carey campaign.

O The Majority falsely claims that the AFL-CIO refused repeated offers extended by the Committee to narrow the May 23 document subpoena. To the contrary, Majority Counsel repeatedly informed the AFL-CIO that the subpoena would not be narrowed. For example, in a June 19, 1997 meeting of counsel for the AFL-CIO with both Majority and Minority counsel, Majority counsel explicitly stated that the Committee would not agree to a narrowing of the subpoena. And in fact, an August 23 letter signed by the Majority Chief Counsel -- and incorporated by the Chairman

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[207] See Letter from AFL-CIO counsel, Robert Weinberg and Robert Muse to Majority and Minority Chief Counsels, June 5, 1997; Letter from AFL-CIO counsel to Majority and Minority counsel, July 11, 1997; Letter from AFL-CIO counsel to Majority counsel, Aug. 6, 1997; Letter from AFL-CIO counsel to Majority and Minority Chief Counsels, 8/20/97.

[208] See Memorandum of Points and Authorities in Support of the AFL-CIO's Objections to the Subpoena Duces Tecum, 8/27/97.

in his September 3 Ruling and Order -- simply set forth the Majority's demands for an "immediate production," which was clearly labeled as an "initial production" sought by the Majority.[209]

O The Majority falsely claims that the AFL-CIO "refused to produce witnesses pursuant to deposition subpoenas, or to allow the Committee to interview persons affiliated" with the AFL-CIO. The record shows that this characterization is wrong. Deposition subpoenas were sent to a total of five AFL-CIO officials or consultants. The AFL-CIO did not refuse to produce any of these witnesses.[210]

O The Majority is wrong in its claim that the Minority would not have supported contempt actions against <u>all</u> groups that did not comply with subpoenas. In fact, the record is clear that on a number of occasions, the Minority asked the Committee to enforce its subpoenas. The Minority believed that a refusal to enforce subpoenas not only impeded the Committee's investigation, but set a terrible precedent. As Senator Lieberman noted, "We are the people's representatives. We are the people's opportunity to find the facts, to search for the truth, and when the parties that we subpoena are asked for information, do not cooperate, it is an insult to the Congress, and it sets a precedent that is not one that we should accept."[211] When Chairman Thompson asked Senator Glenn on October 8 if he would vote to hold liberal-leaning, as well as conservative-leaning, groups, in

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[209] Letter from Majority Chief Counsel to AFL-CIO counsel, Aug. 25, 1997, at 4 (stating that "the Committee agrees not to enforce the following specifications at this time.").

[210] As documented in a September 22, 1997 letter to Majority Chief Counsel from AFL-CIO counsel, subpoenas for three of the AFL-CIO witnesses (Richard Trumka, Gerald Shea, and Steve Rosenthal) were sent by Majority counsel by <u>facsimile at 5:35 p.m. on Friday</u>, September 19, 1997, to the offices of AFL-CIO counsel. The subpoenas demanded appearances <u>at 9:00 a.m on Monday</u>, September 22, of the AFL-CIO's Secretary-Treasurer, Political Director, and Executive Assistant to the President. No notice preceded these subpoenas and, indeed, they arrived approximately 24 hours after the Majority Chief Counsel had assured the AFL-CIO that the Committee would not be taking any depositions of AFL-CIO witnesses. The Majority had been informed that all three individuals were in Pittsburgh for the AFL-CIO's biannual convention, which was scheduled to continue through the week of September 22. Counsel for the AFL-CIO submitted a letter to the Committee on the morning of September 22 explaining why the three witnesses would not be appearing on that day. That letter did not state that the witnesses would not appear on another date. The Majority made no effort at any time to secure the presence of these witnesses on another date. With regard to the deposition subpoenas issued to two AFL-CIO consultants, the majority's claims of "defiance" are similarly false. One of these witnesses — Geoffrey Garin — appeared at his deposition and testified fully in response to questions by Committee counsel. The other witness, Ray Abernathy, was subpoenaed for a deposition to take place on September 20, but prior to his appearance, counsel for the AFL-CIO was informed by Majority staff that it would not be necessary for Abernathy to appear.

[211] Senator Lieberman, 10/7/97 Hrg. p. 41.

contempt, Senator Glenn responded:

> I would probably vote for contempt for the whole, for everybody that has denied our subpoenas, for everybody who has said they will not appear and has stiffed us. I think the authority of this Committee, the jurisdiction of the Committee, the jurisdiction of the United States Senate to enforce subpoenas is what is at issue here. . . . Let us support all of [the Committee's subpoenas].[212]

Thus, months before the Committee's mandate expired, the Minority expressed its willingness to support contempt actions against noncompliant groups.

O The Majority Report fails to acknowledge that defiance of the Committee's authority began when the National Policy Forum ignored an order by Chairman Thompson and refused to produce documents. On April 9, 1997, the Committee issued a subpoena calling on NPF to produce responsive documents by April 30. NPF provided a limited number of documents on June 6 and June 30, but stated that these documents were not responsive and claimed that the subpoena was invalid. On July 3, Chairman Thompson issued an order that stated, "The National Policy Forum is ORDERED and DIRECTED to produce all documents in its files that are responsive to the NPF subpoena ... by 9 a.m. on Monday, July 14...."[213] NPF flatly refused to obey this order. The Committee failed to initiate contempt proceedings. A month later, a number of other groups, including the Trail Lawyers, the Christian Coalition, the AFL-CIO, and the National Right to Life Committee, announced that they would challenge the Committee subpoenas.

O The Majority Report fails to acknowledge that defiance of the Committee's authority continued when individuals associated with Triad Management refused to appear for depositions or answer questions pursuant to Committee subpoena. On September 8, 1997, counsel for employees, officers and directors of Triad, Citizens for Reform, and Citizens for the Republic informed the Committee that they would not appear for deposition pursuant to subpoena. While three individuals did later appear, they refused to answer any questions. This was the first instance of individuals refusing to comply with subpoenas.[214]

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[212] Senator Glenn, 10/8/97 Hrg. pp. 73-74.

[213] Order to National Policy Forum from Chairman Thompson to produce all documents responsive to the National Policy Forum subpoena, 7/3/97.

[214] In September, the Majority subpoenaed three individuals associated with the AFL-CIO. The Committee issued these subpoenas after it had announced its intention to suspend investigative hearings and proceed with hearings on campaign-finance reform. Even though the Committee knew that the subpoenaed individuals had previous time commitments, it ordered them to appear for depositions only three days after the subpoenas were issued. The individuals

(continued...)

O The Majority's claim that noncompliance by nonprofit groups prevented it from drawing "any meaningful conclusions about the activities of nonprofit groups during the 1996 elections" is disingenuous. The Majority has used the noncompliance of Republican nonprofit groups as an excuse for not examining the activities of these organizations. Although the recalcitrance of these groups did hamper the Committee's investigation, as Part 3 of the Minority Report shows, there is ample documentary evidence to conclude that Republican Party improperly used tax-exempt groups, such as Americans for Tax Reform, the National Right to Life Committee, the Christian Coalition, and Coalition for Our Children's Future, for political purposes. And it was the Majority's own failure to seek enforcement of the subpoena that created that problem the Majority now relies on for an excuse.

Response to Majority Chapter 28: "The Role of Nonprofit Groups"

The Majority and the Minority agree that nonprofit organizations played a major role in the 1996 campaign. These groups spent tens of millions of dollars distributing "voter guides" aimed at helping specific candidates win election or broadcasting purported "issue advocacy" ads that were clearly designed to help specific candidates. The law governing issue advocacy is extremely liberal: Advertisements that avoid using certain language to "expressly advocate" the election or defeat of specific candidates is generally deemed by the courts to fall into the "issue advocacy" category. As a result, the funds used to pay for the ads are not treated as campaign contributions. Thus, donors who want to evade campaign finance restrictions have been able to assist candidates by donating money to nonprofit groups that run political attack ads under the guise of issue advocacy.

In discussing the role of nonprofit groups, the Majority correctly states that there was "an unprecedented level of political activity by nonprofit groups" during the 1996 election. The Majority is also correct in stating that several nonprofit groups failed to cooperate with the Committee's investigation. But the Majority's chapter on this subject is seriously flawed on several grounds.

Overview

O The Majority mischaracterizes the degree to which different nonprofit groups cooperated with the investigation. Most notably, the Majority focuses on AFL-CIO as being extremely recalcitrant while downplaying or ignoring similar examples of noncooperation by several conservative groups. It also states that the Committee was unable to question several former officials of the Republican National Committee ("RNC"), without noting the reason: The Minority's efforts to serve at least one of the individuals with knowledge of the RNC's interaction with outside groups

[214](...continued)
informed the Committee that they would not appear at the scheduled time, but the Committee made no attempt to reschedule their depositions.

was impeded by the Majority.[215]

O The Majority asserts that the Committee faced an "inability" to depose key personnel of the RNC, Americans for Tax Reform, Triad and others and states that it is unable to form conclusions as the result of such non-cooperation. In fact, the Committee could easily have found these individuals in contempt of the Committee and enforced the subpoenas. The Committee could also have held public hearings on these groups.

O The Majority applies a different standard to the AFL-CIO, which ran issue ads aimed at benefiting the Democrats, than it applies to Republican groups. For example, the Majority discusses allegations that the AFL-CIO coordinated with the Democratic National Committee and the Clinton re-election campaign, and yet it minimizes -- or simply ignores -- disturbing evidence regarding the Republican National Committee's coordination with pro-Republican groups. As noted below, the RNC not only engaged in extensive coordination with a long list of nonprofit organizations, it established nonprofit front groups and it provided millions of dollars in financial help (directly or through fundraising assistance) to several other tax-exempt groups.

The AFL-CIO

O In asserting that the AFL-CIO engaged in illegal coordination with the Clinton campaign, the Majority applies a double standard. Relying upon a legal analysis for coordination of an independent expenditure containing express advocacy, the Majority concludes, contrary to the facts, that the AFL-CIO engaged in illegal coordination while Triad Management did not. The Majority's claims that a nonprofit group violates the law regarding coordination with campaigns only when the group spends money "at the request of the candidate . . . or based upon information obtained from the candidate." The Majority concludes that the AFL-CIO illegally coordinated with he Clinton campaign although they fail to offer evidence that any candidate, campaign staff, or White House officials provided information or direction to the AFL-CIO.

O The Majority improperly assumes that all communications between the AFL-CIO and the White House were for the purpose of electoral politics. As Garin and Ickes testified, meetings between the AFL-CIO and White House officials were principally related to then pending legislative issues, and the AFL-CIO often shared information with the White House to persuade White House

[215] In early August 1997, Curt Anderson, through his attorney, indicated he would voluntarily appear for a deposition. Subsequently, he changed his mind, and at the request of the Minority, the Majority issued a Subpoena with a September 18 return date. Anderson could not be located immediately and the subpoena was served on September 19, one day after the return date. Anderson's attorney claimed the subpoena was invalid, and the Majority refused the Minority's request to issue a second subpoena to Anderson.

officials to support the AFL-CIO position with respect to those issues.[216]

O The Majority inaccurately asserts that the AFL-CIO and staff of the Clinton campaign improperly coordinated timing and strategy of balanced budget advertising in December 1995. In fact, the testimony is consistent that both White House staff and Clinton campaign officials believed that the only advertisements viewed were advertisements already on the air, and that they took steps to ensure they would not coordinate content, strategy or location of advertising in advance. The Majority report falsely states that both Harold Ickes and Dick Morris testified that organized labor and the DNC previewed each others advertising. In fact, Morris testified organized labor showed ads they "either had run or were planning to run, I was never quite clear what it was. And we showed them ads that had already run."[217] Ickes testified "I think that these ads were up and running and that the AFL-CIO just wanted to show us what they were running," and Doug Sosnick testified that he had no specific recollection of the ads but recalled discussing with Ickes that White House staff "would not discuss with labor either the content or placement of their ads prior to them doing it," and that White House staff likewise would not discuss what the DNC would air or where it would air.[218] Thus, there is no evidence that DNC or labor advertisements were ever previewed, and their is no evidence that there was ever any advance discussion of content or placement of such advertising.

O **The Majority improperly relies on testimony of political consultant Dick Morris, that an official of organized labor, who he cannot recall, suggested that 1995 balanced budget advertising be coordinated.** In fact, Morris also testified that there was never any agreement to coordinate and no coordination took place. Morris testified that the suggestion of coordination was immediately rejected and at no time during the campaign were the ads coordinated in any way.[219] Several other individuals including then Chief of Staff Leon Panetta and George Stephanopoulos, who were also present had no recollection of any suggestion of coordination.[220] While Ickes had no specific recollection of such a suggestion, he testified that there "could well have been" a suggestion of coordination, as there were many suggestions made at meetings.[221] However, Morris, Sosnick,

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[216] Geoffrey Garin deposition, 9/5/97, p. 41.

[217] Dick Morris deposition, 8/20/97, p. 216-17.

[218] Harold Ickes deposition, 9/22/97, p. 193; Doug Sosnick deposition, 9/12/97, pp. 148-49.

[219] Dick Morris deposition, 8/20/97, p. 217.

[220] Leon Panetta deposition, 8/29/97, p. 190; George Stephanopoulos deposition, 9/6/97 p. 98.

[221] Harold Ickes deposition, 9/22/97, p. 193.

and Ickes testified that no coordination of advertising schedules actually occurred.[222]

O **The Majority details no evidence that the AFL-CIO coordinated any 1996 issue advertising with any congressional candidate.** AFL-CIO advertising in 1996 contained advertisements that focused on the records of specific candidates for the House of Representatives. In the spring of 1995, the AFL-CIO made a public announcement of its intent to target many freshman Members of Congress. While the AFL-CIO informed Ickes of this intent, the information hardly amounts to "the sneak preview" alleged by the Majority. Similarly, the Majority recites information about a "draft" memorandum from Jennifer O'Connor without mentioning the fact that on the face the memorandum it is clear that the memorandum relates to the "Coordinated Campaign," the permissible annual get-out-the-vote programs undertaken by groups sympathetic to both political parties.

Triad Management Services

O The Majority incorrectly states that Triad Management provides services to conservative contributors in exchange for a set fee. Evidence received by the Committee shows that Triad does not charge regular fees, is largely financed by a single backer and generates no profits. See Minority Report Chapter 12.

O The Majority incorrectly states that Citizens for Reform and Citizens for the Republic Education Fund simply paid management fees to Triad and aired issue advertising under Triad's guidance and omits a full description of their relationship with Triad. Citizens for the Reform and Citizens for the Republic Education Fund were created and controlled by Triad. Both organizations existed largely on paper and lacked offices, staff, and telephones. Moreover, these organizations undertook no activities apart from those arranged by Triad. See Minority Chapter 12.

O The Majority insists that Triad's pattern of visiting campaigns, meeting with candidates and campaign staff, reviewing advertisements, providing advice to candidates and staff, and gathering information on key issues in the race did not rise to the level of illegal coordination. **The Majority simultaneously concludes that the AFL-CIO did engage in illegal coordination based on less compelling, and often undocumented facts and evidence.** The reports of meetings between Triad's consultants and Republican candidates and campaigns document an unprecedented level of coordination between allegedly independent organizations and campaigns. The FEC has repeatedly enforced violations for activity similar to and less extensive than Triad's.[223] The Majority also employs a double standard under which it concludes that all AFL-CIO and White House communications were sufficient to establish coordination, but Triad and candidate

[222] Harold Ickes deposition, 9/22/97, p. 193, Dick Morris deposition, 8/20/97, p. 217, Doug Sosnick deposition, 9/12/97, p. 46.

[223] FEC Matter Under Review 3918 Hyatt Legal Services; FEC Matter Under Review Orton for Congress; FEC Matter Under Review 3608 Bush Quayle '92.

communications were not.[224]

O The Majority asserts that Triad did not make an illegal corporate contribution to the Brownback for Senate campaign when Triad employee Meredith O'Rourke was sent to the National Republican Congressional Committee ("NRCC") to help Senator Brownback "dial for dollars." In fact, O'Rourke testified that she went to help Brownback at the instruction of her superior at Triad, Carolyn Malenick.[225] The Majority relies on press statements of Triad's attorneys rather than O'Rourke's testimony in claiming that O'Rourke appeared at the NRCC as a "volunteer."

O The Majority asserts that there is insufficient evidence to conclude that employees of Triad engaged in an illegal scheme to launder contributions through PACs to Republican candidates. The Majority further offers instances of overlapping contributions from individuals and PACs to Democratic candidates as evidence that coincidental contributions are not necessarily illegal. The Majority ignores compelling evidence developed by the Committee that Triad employees personally solicited the names of potential PAC contributors from candidates, solicited those individuals for PAC contributions, delivered contributions to the PACs, were in regular communication with people at each PAC, and delivered PAC contributions to recipient candidates. The Committee established that Malenick was involved as an intermediary in the making of contributions to multiple PACs that all made contributions to the same candidate within days.[226] No similar evidence of earmarking was uncovered in relation to contributions received by Democratic candidates. See Minority Report Chapter 12.

O The Majority fails to mention evidence that over $1 million of Triad's ad campaign was financed by a secret organization, the Economic Education Trust, that required Triad use its political consultants, and that also appears to have funded advertising through other organizations. The Minority twice requested a Committee subpoena for the financial records of the Economic Education Trust. No subpoena was ever issued, virtually ensuring that the identity of the individuals or corporations who may have influenced the outcome of elections will remain unknown. See Minority Report Chapter 12.

O The Majority asserts that the Minority has repeatedly leaked documents pertaining to Triad in violation of the Committee protocol. The Majority specifically relies on a May 2, 1997 Kansas City Star article detailing suspicious PAC contributions to the Brownback for Senate campaign. The article makes no reference to information obtained from the Committee, is based on information available on the public record, and was written months before Triad produced records to the Committee. Further, an October 29, 1997, Wall Street Journal article on the subject of Triad

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[224] FEC Matter Under Review 3608, Bush-Quayle, and J. Stanley Huckaby as treasurer.

[225] Meredith O'Rourke deposition, 9/3/97 pp. 94-95.

[226] Minority Report Chapter 12.

states: "Republican investigators said the Kochs paid Triad a fee, indicating they are a client of the company, which advises donors on where to contribute."[227] The Majority's assertion about leaks is ironic, considering that several major newspaper articles specifically stated that they were based on documents and transcripts (covered by the Senate protocol) obtained from the Republican staff of the Committee.[228]

The RNC's Relationships with Tax-Exempt Groups

O The Majority insists, contrary to the evidence, that the Republican National Committee did not coordinate its activities with nonprofit groups that received millions of dollars of RNC funds in the weeks prior to the election. In fact, the investigation revealed that the RNC was in constant communication with nonprofit groups regarding election-related activities and that the RNC actually instructed Republican candidates on how to coordinate with outside groups. See Minority Report Chapters 10, 11, 13, and 14.

O The Majority asserts that the Committee "found no evidence that the RNC directed or controlled" the expenditure of the millions of dollars it provided to nonprofit groups in the weeks before the election. In fact, substantial evidence shows that Americans for Tax Reform received from the RNC $4.6 million to spend on a massive phone bank and direct-mail operation aimed at helping Republican candidates. As then RNC-Chairman Haley Barbour has acknowledged, the RNC could not permissibly have paid for the ATR activity itself without using a combination of hard and soft dollars. Other documents involving the American Defense Institute and National Right to Life Committee suggest that the RNC withheld the delivery of substantial third party contributions pending participation in desired activities. The Majority view of this activity contrasts sharply with its characterization of Harold Ickes's discussions with Warren Meddoff.[229]

O The Majority Chapter fails to mention nonprofit groups that were actually founded by

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[227] Wall Street Journal, October 29, 1997(emphasis added).

[228] See New York Times 9/14/97: "A copy of the deposition, taken on June 26 and 27 in the Hart Senate Office Building, was obtained by The Times from a Republican staff member in the Senate;" Washington Post, 11/14/97 citing classified information provided to a few Committee Members.

[229] As discussed in Chapter 25 of the Majority Report and Chapter 17 of the Minority Report, Florida businessman Warren Meddoff approached Harold Ickes, then Deputy Chief of Staff in the Clinton White House, and said his business associate was interested in making a large contribution to the Democrats. Later, Meddoff asked Ickes to provide him with a list of tax-exempt groups to which Meddoff's associate could contribute. The Majority condemns this activity despite the fact that Ickes merely recommended certain nonprofit groups -- in response to a specific request -- but finds no fault with the RNC which provided substantial funding to several groups, heavily coordinated with those groups, and founded two such groups.

the RNC, one of which ran issue ads as a proxy for the RNC. The National Policy Forum was established in 1993 by RNC Chairman Barbour as a policy arm of the party and was later denied tax-exempt status due to its close connections to the Republican Party. In 1995, the RNC created the Coalition for Our Children's Future, another 501(c)(4) entity, for the sole purpose of running "issue ads," on behalf of the Republican Party and its candidates. By using working through CCF, the RNC lent credibility to the ads, since they seemed to emanate from a legitimate grassroots organization, and avoided spending scarce hard money. See Minority Report Chapters 3 and 13.

O The Majority falsely asserts that Americans for Tax Reform "complied with the Committee's subpoenas." ATR in no way complied with the Committee subpoena, refusing to accept the Committee's authority to compel the production of documents, making a unilateral determination to "voluntarily" produce certain documents and alleging that the Committee lacked jurisdiction over it because it claimed not to have engaged in election activity in 1996. This despite the fact that ATR received $4.6 million from the RNC right before the 1996 elections. An unknown amount of documents that would have been responsive to the subpoena were withheld. See Minority Report Chapter 11.

O Despite consistent efforts of the Minority, the Committee failed to interview a single person from the RNC or ATR regarding the $4.6 million transfer.

RNC Coordination with the Dole Presidential Campaign

O The Majority asserts that "the Committee cannot draw any meaningful conclusions about the allegations that the RNC coordinated its issue advocacy expenditures with the Dole campaign." In fact, the Committee has developed evidence that the RNC and the Dole for President campaign coordinated its issue advertising campaign in an almost identical fashion to the Clinton campaign and the DNC. Thus the Majority's inability to draw conclusions is puzzling in view of the clear conclusion that the Democratic coordination was extensive and illegal. The investigation has shown that Dole campaign manager Scott Reed controlled the budget of the RNC's issue-advocacy campaign; Dole consultants Don Sipple and Tony Fabrizio created and produced the RNC's ads; and the Dole fundraiser who left the Dole payroll to become RNC deputy finance director, raised the money used to fund the Dole-RNC media campaign. See Minority Report Chapter 33. Moreover, no provision in current federal law forbids national parties to coordinate with their presidential candidates.

Response to Majority Chapter 29: "Allegations Relating to the National Policy Forum"

In this chapter, the Majority attempts to provide a defense for the National Policy Forum by depicting it as an independent, nonpartisan, tax-exempt organization which fully cooperated with the Committee. The Majority defends the Republican National Committee's role in creating and funding the organization. The Majority also spends a great deal of time discussing former RNC Chairman Haley Barbour's solicitation of a loan from Young Brothers Development, Hong Kong. According

to the Majority, Barbour did not use the loan to help finance Republican congressional elections in 1994. In fact, the Majority Report concludes that "the facts cannot be twisted to support a charge that Barbour's testimony was anything less than truthful." In coming to the defense of Barbour, the Majority raises questions about the credibility and clarity of other witnesses' testimony, including Fred Volcansek, Richard Richards, Ambrous Young, and Benton Becker.

The Majority's chapter on the NPF twists the facts:

O The Majority falsely claims that "the NPF and NPF witnesses fully complied with the Committee's inquiry." In fact, the NPF challenged the authority of the Committee and never produced a single document pursuant to the Committee subpoena. For instance, the NPF never produced the letter or the memorandum which Michael Baroody, the president of the NPF, submitted to RNC and NPF Chairman Haley Barbour when Baroody resigned. Nor did NPF witnesses fully comply: Daniel Denning, former president of the NPF, refused to answer numerous questions that were posed to him during his deposition.

O The Majority chapter contradicts itself on the issue of whether "the RNC had knowledge that the funds for the YBD Team 100 contributions were derived from a foreign source rather than the U.S. earnings of a domestic corporation." Although the Majority claims that the RNC had no knowledge about the source of these contributions, the Majority itself acknowledges in its chapter that Richard Richards testified that Alex Courtelis, an RNC official, "knew at the time that the Young Brothers USA contributions to the RNC arose our of the Young Brothers Hong Kong money."[230]

O In its discussion of the origin of the NPF loan guarantee, the Majority omits any reference to evidence that demonstrates that the funds would be used to assist Republican candidates in the 1994 congressional elections. The Majority has created a novel theory that was not presented by any witness at the NPF hearings: "The NPF recognized that, as a result of the impending congressional elections, the RNC and congressional campaigns would present stiff competition for available fundraising sources through November, 1994." In fact, several sources -- including the Volcansek talking points,[231] Ambrous Young's September 9, 1994, letter hand-delivered to Barbour,[232] and Richard Richards's September 17, 1996 letter[233] -- make clear that Barbour approached Ambrous Young by stating that the money supplied by Young Brothers Development

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[230] Exhibit 402: Affidavit of Richard Richards, 7/14/97.

[231] Exhibit 277: Talking Points for Haley Barbour, 7/28/94.

[232] Exhibit 289: Letter from Ambrous Young to Haley Barbour regarding support of the Republican Party and NPF, 9/9/94, 0040.

[233] Exhibit 349: Letter from Richard Richards to Haley Barbour regarding the YBD loan to NPF, 9/17/96, RB 014591.

would ultimately be used to help Republican candidates in the 1994 election.

O In its attempt to bolster the credibility of Barbour, the former RNC chairman, the Majority either ignores contradictory testimony or tries to impeach witnesses who contradicted him. Even though Barbour is contradicted on several points by numerous witnesses and documents, the Majority asserts his testimony was credible. As detailed in Chapter 3 of the Minority Report, Barbour's testimony was contradicted on several important points by Fred Volcansek, Steve Young, Ambrous Young, Benton Becker, and Richard Richards.[234] Moreover, the documents obtained by the Committee also either contradict, or do not support, Barbour's version of events.

O The Majority has mischaracterized the commitment that Haley Barbour made to Young Brothers Development in order to secure the loan guarantee for NPF. The Majority Report references Barbour's August 30 letter to Benton Becker and notes that "Ultimately, Barbour responded with a letter committing to raise the issue with the RNC Budget Committee and seek its approval in the event that the NPF defaulted on an outstanding debt to a 'domestic corporation.'" In fact, Barbour made a much stronger commitment, "Moreover, as Chairman of the RNC, in the event NPF defaults on any debt, I will ask the Republican National Committee to guarantee me such

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[234] The Majority goes to great lengths to impeach the credibility of former RNC Chairman Richard Richards, particularly as it relates to his letter to Barbour on September 17, 1996, concerning the purpose of the loan. The Majority Report quotes from an affidavit signed by Richards on July 14, 1977, in which he states that "I now understand that these funds could not and were not used to directly benefit congressional candidates." The circumstances surrounding the signing of this affidavit were described by Richards's attorney, Benton Becker, in a letter to the Committee on December 16, 1997. According to Becker, RNC attorney Martin Weinstein contacted his office to inquire if, among other things, Richard "might submit to [a] 'brief interview'. . . ." Becker was later informed by Steve Richards that "Mr. Weinstein asked Richard Richards to execute an affidavit that had been prepared by Mr. Weinstein." Becker eventually obtained the affidavit and determined that there were "factual errors therein." Becker advised Richards to execute a new affidavit correcting the errors, which Richards subsequently did. In the affidavit prepared by Weinstein and signed by Richards on July 14, Richards described the letter he had written to Haley Barbour on September 17, 1996: "Accordingly in the letter, I made several serious statements which, upon reflection, were made as negotiating tools [emphasis added] and were not accurate." In his testimony before the Committee on July 24, Haley Barbour testified in response to a question from Counsel Alan Baron whether he viewed Richards's September 17 letter as credible: "Now that's what I took the letter to be, a negotiating tool [emphasis added], to put pressure on me. That's why I didn't respond. It's also why I didn't give it credibility." Despite the remarkable similarity between Richards's affidavit and Barbour's testimony, Richards consistently testified that Barbour told him in 1994 that the money was to be used for the 1994 congressional elections. Richards's testimony in that regard is corroborated by Volcansek and by the documents.

authority to pay off any NPF debts. I am confident the RNC would grant me such authority . . . ."[235] Indeed Senator Thompson, apparently recognizing this commitment, remarked to Barbour, "[I]t looks to me like you had a situation there where this gentleman, whether he is a citizen or not, caused his company to put up some money that was lost at a time when he was thinking, anyway, that the RNC, had a moral obligation to step in there and do what it could. . . .So legalities aside, you know, a deal is a deal, and don't you think maybe that you and I both ought to urge that thing be looked at again?"[236]

O The Majority claims that "the NPF did not misuse its tax status," but it fails to describe the NPF's relationship with the RNC. The Majority acknowledges that "the NPF was initially envisioned as a wing or subsidiary of the RNC." The Majority even quotes Michael Baroody, NPF's first president, in support of this view. However, the Majority fails to note that Baroody resigned because he believed Barbour had allowed the ties between the NPF and the RNC to become so close that the NPF's status as an independent, nonpartisan organization was a fiction. Baroody wrote, "I believe that what has happened over many months has undermined my efforts, distorted our purpose, blurred the separation of the RNC and the NPF in such a way as to conceivably jeopardize our 501 (c)(4) application. . . ." He went as far as to say that "in recent months, it has become increasingly difficult to maintain the fiction of separation."[237] Indeed, as the Majority notes, the NPF 501(c)(4) application was rejected by the Internal Revenue Service in 1997. The Majority notes that the IRS's decision has been appealed but fails to quote the IRS's letter explaining that decision. The IRS found substantial evidence that the NPF was far from being the "nonpartisan" organization it claimed to be when it applied for (c)(4) status. The IRS noted, among other things, Haley Barbour's dual roles as chairman of both the RNC and NPF and NPF's heavy reliance on the RNC for funding.[238]

Response to Majority Report Chapter 30: "White House Document Production"

In this chapter, the Majority asserts that the delays in document production by the White House were the result of a deliberate attempt by the White House Counsel's Office to obstruct the work of the Committee. Although the Minority shares the Majority's disappointment with certain delays, the Majority grossly exaggerates this problem. Moreover, the Majority Report never details how the alleged instances of "non-cooperation" obstructed the Committee's investigation.

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[235] Exhibit 285: Letter from Haley Barbour to Benton Becker regarding loan guarantee for the National Policy Forum, 8/30/94, 0037.

[236] Chairman Thompson, 7/24/97 Hrg., p. 170.

[237] Exhibit 273: Memorandum from Michael Baroody to Haley Barbour regarding Baroody's reasons for resignation from NPF, 6/28/94.

[238] Exhibit 353: Letter from the Internal Revenue Service to the National Policy Forum denying NPF tax exempt status, 2/21/97.

O The Majority's complaints about the scope of the White House's assertion of executive privilege are overstated. The Majority describes, in the most dramatic terms possible, the White House's assertions of executive privilege as overly broad, a violation of previous understandings with the Committee, and a substantial impediment to the progress of the Committee's investigation. First, as the Majority Report acknowledges, the Committee adopted a document production protocol on April 1, 1997, which specifically contemplated that the White House could assert executive privilege as to some documents and, in that event, that Committee staff would be provided an opportunity to review such documents and to renew requests for production. Although the Majority Report implies that the Clinton Administration's concern for executive privilege compares unfavorably to previous Republican administrations (which the Report claims "voluntarily waived executive privileges applicable to documents requested by investigative bodies,") the actual historical record is far more mixed. Both the Reagan and the Bush Administrations invoked executive privilege to prevent disclosures of materials to Congress.[239] Indeed, the Reagan Administration invoked executive privilege on no fewer than three occasions.[240]

O The White House did not withhold WAVE record[241] information from the Committee. Perhaps the most egregious distortion of the record is the Majority's insistence that White House Counsel 1) deliberately declined to provide certain categories of information maintained by the Secret Service as part of their WAVE records, 2) deliberately misled the Committee about the existence of these categories of information, and then 3) reluctantly provided the requested information only after being confronted with the facts by the Secret Service in a meeting between Committee staff, White House Counsel and the Secret Service. Each of these assertions is simply wrong. Such false allegations betray the partisan intent of this chapter.

The category of information at issue consists of notations made by the Secret Service to reflect whether their check of the database records maintained by the National Crime Information Center ("NCIC") indicate past criminal activity by a potential White House visitor. The Secret Service referred to this as the "double XX" information because a double XX was placed in the records maintained by the Secret Service next to these entries. Under the Privacy Act, 5 U.S.C. § 552a, this "double XX" information could not be disclosed by the Secret Service unless the disclosure came under specific exemptions contained in the Privacy Act.[242] Because of the sensitivity of this

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[239] Substantiality of White House Claims of Executive, Attorney-Client and Work Product Privilege for Documents Relating To The Hudson Dog Track Matter, Congressional Research Service, 12/3/97; Washington Post, 2/20/98.

[240] Washington Post, 2/20/98.

[241] The Secret Service's WAVE records record visits to the White House Complex by individuals who do not hold White House passes.

[242] Letter from Thomas A. Kelly, FBI Acting General Counsel, to Thomas Dougherty,

(continued...)

information and the legal restraints of the Privacy Act, which imposes personal liability on individuals who make unauthorized disclosures of protected information, the "double XX" information was never included in the monthly printouts of WAVE records provided to the White House.

The Secret Service also provided accompanying computer tapes to the White House containing WAVE record information, including the double XX information, but the software which enabled the White House to print out additional copies of these reports from the computer tape did not allow the White House to access the "double XX" information. Therefore, when the White House received the monthly WAVE records from the Secret Service or printed out additional copies of those records from the computer tape provided by the Secret Service, White House personnel did not see the "double XX" information. Indeed, the White House Counsel's office was not aware of the existence of the "double XX" notations maintained by the Secret Service prior to receiving inquiries from the Majority Counsel about this category of information.[243] The Majority Report is mistaken, therefore, when it suggests that the White House deleted or withheld the "double XX" information before providing the requested WAVE records to the Committee: The White House provided the Committee with all of the WAVE record information in its possession. White House Counsel Charles F.C. Ruff restated this explanation to a Majority Deputy-Chief Counsel on July 29, 1997: "Your assertion that my office receives USSS Waves records from the Secret Service in a format different from that provided to the Committee is simply erroneous."[244]

When Majority Counsel met with the Secret Service in April 1997 and discovered the existence of the "double XX" information, the Committee inquired of White House counsel Karen Popp, who truthfully responded that she knew nothing about the "double XX" information and that the WAVE records which the White House received from the Secret Service did not contain such a category of information. Nevertheless, Popp promised to inquire further and she contacted the Secret Service's Office of General Counsel. Even this Committee had no familiarity with the "double XX" category of information and had to make its own inquiries of the agents who briefed the Committee to establish that this information existed and to learn how it was maintained. Popp advised two Majority counsel that she had confirmed the existence of the double XX information and that both the White House Counsel's office and the Secret Service's Office of General Counsel had not previously known about this information. The Majority Report is in error when it suggests that Popp was not forthcoming when dealing with the Committee staff on this issue.

During a subsequent meeting between Secret Service representatives, Majority Counsel and

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[242](...continued)
Senior Counsel, United States Secret Service, re: propriety of releasing NCIC information to the Senate Governmental Affairs Committee, 8/11/97.

[243] Telephone interview with White House Counsel Karen Popp, 2/20/98.

[244] Letter from White House Counsel Charles F.C. Ruff to Majority Counsel Don Bucklin, 7/29/97, p. 3.

White House Counsel Popp on August 8, the Secret Service raised the concern that disclosing the "double XX" information to the Committee might violate the Privacy Act. The attendees placed a call to the then-acting General Counsel for the FBI, Thomas A. Kelly, who subsequently provided a letter to the Secret Service stating that the Secret Service could disclose the requested "double XX" information to the Committee without violating the Privacy Act.[245] Therefore, although the Majority claims that the White House "eventually produced complete copies of the WAVE records," the truth is that the "double XX" information was provided directly by the Secret Service, in accordance with the restrictions of the Privacy Act.[246] Indeed, in its letter to the Committee accompanying the double XX information, the Secret Service explicitly distinguished the "double XX and comment field information" held by the Secret Service from the "WAVES visitor information" that the Secret Service provided to the White House on a monthly basis.[247]

O The Majority's criticisms of White House Counsel Michael Imbroscio are unfair. The White House's belated production of videotapes responsive to production requests was disappointing but, as the Minority Report explains in detail, there is no evidence that anyone at the White House acted to obstruct this Committee's investigation. The Majority Report suggests that White House Counsel Michael Imbroscio -- who ultimately discovered the existence of responsive videotapes -- actively misled Committee staff members when he informed them that the White House Communications Agency ("WHCA") did not videotape events that were closed to the press and that he would produce a paper log of videotaped events for review by the Committee. Such accusations ignore Imbroscio's consistent deposition and hearing testimony. For example, at a September 9 meeting with Committee counsel, Imbroscio testified that he had asked the WHCA representative he had interviewed to get back to him about the existence of a log of videotaped and audiotape events, that he would inquire further on the issue of such videotapes by reviewing the log and, most importantly, he committed to provide the Committee with access to such a log when it was located.[248] Imbroscio's also testified during public hearings that:

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[245] Letter from Thomas A. Kelly, FBI Acting General Counsel, to Thomas Dougherty, Senior Counsel, United States Secret Service, re: propriety of releasing NCIC information to the Senate Governmental Affairs Committee, 8/11/97.

[246] Letter from William H. Pickle, Executive Assistant to the Director (Congressional Affairs), United States Secret Service, to Chairman Thompson re: providing "double x and comment field" information in response to Committee's request for information concerning White House visitors.

[247] Letter from William H. Pickle, Executive Assistant to the Director (Congressional Affairs), United States Secret Service, to Chairman Thompson re: providing "double x and comment field" information in response to Committee's request for information concerning White House visitors.

[248] Michael Imbroscio deposition, 10/17/97, pp. 111-112.

> I said very clearly there were videotapes of fundraising events and that -- but to my understanding there were not videotapes of coffees, but that I would inquire further. . . . I did not have complete confidence that Mr. Smith knew precisely on a day-to-day basis what WHCA did, and so that is why I couched it in the terms I did, which is my understanding they were not filmed, but I wanted to satisfy myself on a first-hand basis whether or not they, in fact, existed.[249]

Although there were miscommunications and misunderstandings that delayed the production of responsive videotapes, the Majority ignores the consistent testimony of Imbroscio regarding his representations to Committee counsel during their September 9 meeting.[250] Significantly, the Minority proposed that the Majority Counsel who was present at the September 9 meeting, be deposed concerning his communications with Imbroscio, but this request was rejected by the Majority. The Majority also ignores the fact that as soon as the coffee tapes were discovered, Imbroscio called the Majority Counsel immediately.

O The Majority falsely asserts that the Ruff memo's definition of "document" was the reason that WHCA failed to identify responsive videotapes. The evidence is clear that, but for the mishandling of page two of the Ruff memo by the career military personnel in the White House Communications Agency, the White House Counsel's document-search procedures were adequate to identify the existence of responsive videotapes. Notwithstanding the Ruff memo's simple definition of "document," WHCA personnel did, in fact, search their videotape and audiotape databases for responsive materials. Indeed, WHCA Deputy Commander Charles Campbell had directed his subordinates to conduct a thorough search of all records (regardless of media).[251] No responsive materials were identified at that time because of the mishandling of the second page of Ruff memo with its request for materials related to coffees. Both the Campbell and Chief Charles McGrath, the person actually responsible for searching the audio and video databases, testified to the Committee that they would have identified responsive videotapes if they had seen page two of

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[249] Michael Imbroscio, 10/29/97 Hrg., pp. 163 & 190.

[250] The Majority Report also unfairly accuses Imbroscio of misrepresenting WHCA's practices of document retention to Committee Counsel during the September 9 meeting by reporting that WHCA's phone logs were destroyed after 60 days. Majority Report, Chapter 24, n. 87. Imbroscio explained in response to a question from Chairman Thompson that he was not aware at the time of the September 9 meeting that WHCA maintained <u>separate</u> logs for the President or that copies of those logs were provided to the diarist. Michael Imbroscio, 10/29/97 Hrg., pp. 214-215.

[251] Exhibit 2428M: E-mail message from Col. Charles Kenneth Campbell to WHCA personnel re: HOT SUSPENSE - Document Search, 4/29/97.

the Ruff memo.[252] In its determined attempt to shift blame from the WHCA to the White House Counsel's Office, the Majority Report inexplicably characterizes the above-described testimony from the career military personnel at WHCA concerning matters within their direct experience and area of responsibility as a "purely speculative assessment of the impact of this mysterious and inadvertent transmission error."

O The Majority ignores the testimony of the WHCA individual who actually conducted the serach for the videotapes. The Majority takes the comments of one WHCA official, Steve Smith, out of context when it quotes him as saying, "if somebody wanted the White House Communications Agency to look for tapes, audiotapes, videotapes, . . . that's what they should ask for you know, video or audiotapes." At the time of the Ruff memo, however, Smith had not assumed his present position with WHCA, was not in the operational chain of command for the Audiovisual Unit, and bore no responsibility for directing the search of the audiotape and videotape databases.[253] Furthermore, Smith never testified that the Ruff memo, with its simpler definition of document, was inadequate to allow WHCA personnel to identify responsive videotapes. Most important, however, is the fact that the Majority ignores the testimony of the WHCA officials who actually had responsible for responding to the Ruff memo. Those officials testified that they would have identified responsive videotapes if the second page of the Ruff memo, which specifically asked for materials relating to "coffees," had not been inadvertently omitted from the e-mail transmitted to WHCA personnel. See Minority Chapter 42.

O Contrary to the Majority's assertion, inclusion of the Committee's definition of "document" would not have been likely to put others on notice that WHCA had failed to identify all responsive material. The Committee's investigation, however, failed to identify any individual with both the requisite knowledge of WHCA videotaping activities and close involvement with the document production process who might have identified responsive videotapes earlier with the benefit of the Committee's full definition of "document." For example, the Majority broadly claims that White House Deputy Counsel Cheryl Mills knew that one of WHCA's function was to videotape the President and that she attended meetings of lawyers working on the campaign finance investigation. Mills testified during her deposition, however, that she was generally unaware which events WHCA was videotaping.[254] Moreover, she was not involved with the coffees during the time they were occurring, did not attend any coffees, and did not even know there was a coffee "program."[255] Moreover, Mills did not play a major role in the White House's responses to the

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[252] Col. Charles Kenneth Campbell deposition, 10/21/97, p. 83; Chief Charles McGrath deposition, 10/20/97, pp. 89-90.

[253] Steven Smith, 10/23/97 Hrg., p. 93.

[254] Cheryl Mills deposition, 10/18/97, pp. 57-59.

[255] Cheryl Mills deposition, 10/18/97, pp. 54-57.

Committee's document requests.[256] Similarly, other members of the White House Counsel's Office, although more involved with producing materials to the Committee, did not have detailed knowledge of the kinds of events videotaped by WHCA.

O The Majority provides insufficient evidence that the White House tried to "manipulate" the investigation by disclosing materials to the press. The Majority Report is especially inchoate in its repetitive criticisms of the White House for allegedly attempting to "manipulate" the Committee's investigation by providing some materials to both the Committee and the press at the same time. The Majority, however, never explains why it considered the White House provision of information to the press and the public as inappropriate. Nor does the Majority explain how that process "manipulated" the Committee's investigation.[257] In addition, the Majority's complaints in this regard conflict with claims it makes elsewhere that the Committee efforts "led to the exposure by the White House -- either though the Committee's hearings or through the White House's production of information directly to the press -- of much that would otherwise have remained undisclosed." Finally, the White House's release to the press of information that had been requested by the Committee was not prohibited by any Senate rule, Committee protocol, or informal agreement. In sharp contrast, information from numerous confidential deposition transcripts and staff interviews regularly appeared in the press throughout the course of the Committee's investigation in direct violation of Committee protocol.[258]

Response to Majority Report Chapter 31 : "DNC Document Production"

In this chapter, the Majority contends that the Democratic National Committee acted in bad faith in connection with the Committee's document subpoena and chose to ignore the subpoena's return date. The Majority states that the DNC was "slow walking" its response to the subpoena, knowing that the DNC could use the allegedly more urgent subpoenas issued by federal grand juries as an excuse for delaying its response to the Committee.

The Majority fails to note the extent of cooperation provided by the DNC in making staff available for depositions and testimony without subpoenas, in stark contrast to the lack of cooperation exhibited by other groups, including the Republican National Committee.

O The Majority's claim that the DNC intentionally delayed production of documents is

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[256] Cheryl Mills deposition, 10/18/97, p. 52.

[257] Letter from White House Counsel Lanny Breuer to Majority Chief Counsel, 7/11/97. Letter from Majority Chief Counsel to Lanny Breuer, 7/18/97.

[258] Letter from Thomas C. Hill to Chairman Thompson re: unauthorized disclosure of Heather Marabeti's deposition transcript to the Washington Post, 9/30/97; Letter from White House Counsel Lanny Breuer to Majority Chief Counsel re: complaint that Committee staff has provided deposition testimony from multiple witnesses directly to reporters, 9/2/97.

unfounded and untrue. The DNC made significant efforts to respond to the Committee's subpoena, which, according to DNC Chairman Roy Romer, "reached far beyond the legitimate needs of the Committee's investigation."[259] In apparent frustration with the refusal of the Committee to narrow the scope of the subpoena, Romer sent a letter to Chairman Thompson on July 17, 1997, in which he wrote that the scope and attendant cost of document production would rival or exceed the costs associated with the largest civil cases in U.S. history, "cases brought against huge corporations with thousands of employees and resources vastly exceeding the limited funds of the DNC."[260] By the end of 1997, the DNC had incurred logistical, technical, and staff costs of $4.75 million responding to various investigations. This figure does not include legal fees, which significantly increases the total expenditures made by the DNC in response to the Committee and other investigative demands.[261]

The DNC attempted to adjust to the shifting deposition schedules, document demands, and priorities of the Committee. The Committee conducted the equivalent of 38 days of depositions, 14 interviews, and five days of public hearings of current and former DNC officials who voluntarily provided sworn testimony to the Committee, unlike several former and current RNC officials, who insisted on Committee subpoenas before they would cooperate. Even when subpoenas were issued, RNC officials largely ignored them, ultimately providing only two half days of deposition testimony.

The DNC faced approximately 18 separate subpoena and document demands from various investigative bodies including the Committee. In order to respond, the DNC reviewed over 9 million documents. Unlike the RNC, which produced only about 70,000 pages of responsive documents, many of which were heavily redacted, the DNC produced about 230 boxes of unredacted documents, exceeding 450,000 pages.[262] In August 1997, to meet the demands placed upon it, the DNC doubled the number of employees dedicated to document production from 17 to 34.[263] The DNC made every effort to meet the Committee's requests in a timely manner, but was overwhelmed by the frequency, extent, and compressed time schedules imposed by the Majority.

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[259] Letter from DNC General Chairman Roy Romer to Chairman Thompson, 9/2/97.

[260] Letter from DNC General Chairman Roy Romer to Chairman Thompson 7/17/97.

[261] Washington Post, 1/19/98.

[262] Letter from Chairman Thompson to DNC General Chairman Roy Romer, 7/23/97; telephone conversation with Paul Palmer of Debevoise & Plimpton, counsel to the DNC, 12/15/97; letter from Chairman Romer and Steve Grossman, DNC National Chairman, to Chairman Thompson, 9/2/97; telephone conversation with Paul Palmer of Debevoise & Plimpton, counsel to the DNC, 1/7/98.

[263] Letter from Roy Romer, DNC General Chairman and Steve Grossman, DNC National Chairman, to Chairman Thompson, 9/2/97; Joseph Birkenstock deposition, 8/28/97, pp. 9-10.

O The Majority contends that as part of a "pattern of gamesmanship," the DNC's first production of 25 boxes of documents was mostly "of no value." The Majority staff specifically asked the DNC to first produce documents relating to John Huang. Within a week of that request, the DNC produced 25 boxes of documents, including all of John Huang's files, all of his e-mail (five full boxes), the results of an exhaustive search of the DNC's computer network for documents relating to Huang and certain others, and all of the Ernst & Young work product from the accounting firm's review of contributions conducted on behalf of the DNC.[264]

O The Majority's contention that the DNC was not looking for e-mail responsive to the subpoena until September 1997 is incorrect. The DNC produced five boxes of Huang's e-mail -- dating back to March 1996 -- weeks before the Committee hearings began.[265] Printouts of other e-mail records were also produced, consistent with priorities established by Majority staff.

O The Majority contends that the DNC produced documents in a manner calculated to impede and obstruct the investigation. The Majority also complained that the DNC routinely produced documents relevant to particular witnesses the afternoon before their deposition, even though the documents had been gathered by the deponents long before. In his August deposition, DNC attorney Joseph Birkenstock testified about the DNC's efforts to comply with the Committee's document subpoena. He stated that he was instructed to carry it out as expeditiously as possible, and there was no apparent deviation from those instructions. Birkenstock testified that while the documents frequently required time-consuming pre-production review to protect against disclosure of personal, confidential, or privileged information, there was no DNC practice or policy to delay production of documents for any reason, nor did the DNC establish different document production priorities from those established by the Committee. Birkenstock stated that the political or legal sensitivity of particular documents or categories of documents was not a factor in determining when they would be produced to the Committee.[266]

In a June 11, 1997, letter to Chairman Thompson, DNC Chairman Romer wrote, "our lawyers have not 'waited' to produce any documents to the committee, much less until shortly before the depositions. To the contrary, we have been working intensively with the limited resources we have to produce whatever 'prioritized' documents we can before the depositions. To then complain that we could not produce those documents even sooner, so that your multi-million dollar, taxpayer-financed legal staff could peruse them at a more leisurely pace (while our lawyers work night and day to try to accomodate their unrealistic and ever-shifting schedule), seems to me to be totally unreasonable."[267] The Committee itself caused a decrease in efficiency in the DNC's document production efforts. The DNC's ongoing document production was often disrupted as the

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[264] Letter from DNC General Chairman Roy Romer to Chairman Thompson, 6/11/97.

[265] Letter from DNC General Chairman Roy Romer to Chairman Thompson, 6/11/97.

[266] Joseph Birkenstock deposition, 8/28/97, pp. 131-133.

[267] Letter from DNC General Chairman Roy Romer to Chairman Thompson, 6/11/97.

Committee's priorities changed regarding who would be deposed or would testify on any given day. This required the DNC change course and identify new documents relevant to each newly identified witness or issue and then review, sort, copy, and produce thousands of pages of documents.

The Majority suggested that the documents sought by the Committee had been previously gathered by the DNC but failed to note that having hundreds of thousands of pages of documents gathered by DNC staff at different times, which were being searched and produced in response to numerous different requests, was of little help when the Committee failed to advise the DNC which witness files it wanted reviewed and produced until immediately before the witness's deposition.

O The Majority contends that the late production of DNC Finance Director Richard Sullivan's files may raise criminal issues. In its Report, the Majority raises the possibility that Sullivan's files were intentionally withheld, which would constitute criminal obstruction of Congress. In fact, the late production of Sullivan's files occurred because the documents were not among those that Sullivan identified to the DNC as being his files, and the files in question were believed to be "generic" Finance Department or staff files. When they were determined to be Sullivan's documents, Romer immediately personally informed Chairman Thompson of their existence. Thereafter, the documents were immediately reviewed by DNC staff and produced to the Majority on August 4, in accordance with Romer's commitment to Chairman Thompson.[268] The Committee then had the opportunity to recall Sullivan, which it did.

Despite the Majority's unusual claims that the DNC may have violated 18 U.S.C. 1501, there is is absolutely no evidence of the physical assault of a process server nor is there evidence of DNC obstruction of compliance with the Committee's subpoena. Similarly, there is no evidence that documents were intentionally withheld from the Committee.

O The Majority's claim that the DNC should have been well-prepared for the Committee's subpoena, because the Committee gave a draft of the subpoena to the DNC on March 18, 1997, is unfounded. In his June 11, 1997, letter to Chairman Thompson, DNC Chairman Romer wrote that although the Committee's Majority staff provided the DNC's counsel a draft of the subpoena, it did so on the express conditions that only one DNC employee could see the draft and that he was required to return it to the Committee's staff within 24 hours. The Committee Majority staff also advised the DNC that the draft subpoena was subject to revision, and it was, in fact, changed before it was issued. The DNC did not receive the final subpoena -- which had been changed from the draft version -- until April 10, 1997. Additionally, the DNC did not receive answers from Majority staff on priorities for production until April 24, 1997.[269]

O The Majority contends that in his August 29 Order to the DNC, the Chairman

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[268] Letter from Roy Romer, DNC general chairman, and Steve Grossman, DNC national chairman, to Chairman Thompson, 9/2/97.

[269] Letter from DNC General Chairman Roy Romer to Chairman Thompson, 6/11/97.

specifically determined that the DNC willfully refused to comply with the lawful subpoena the Committee issued on April 9, 1997. On September 2, 1997, DNC Chairman Romer sent Chairman Thompson a letter responding to the Order which he branded as "nothing more than a partisan political maneuver designed to accomplish some end other than the legitimate investigative purpose of the Committee." According to Romer, "Although the Committee's subpoena was issued on April 9, the relevant terms and scope were not finalized through negotiations until April 24. Even before the process began, however, all the parties -- including you [Chairman Thompson] and the Committee staff -- knew that the April 30 return date was at best humanly impossible and at worst totally absurd. That is why in April the Committee staff agreed to a "rolling production" by the DNC. Even with this oppressive demand, the DNC managed, contrary to your representation, to produce 50,000 pages of documents, including all of John Huang's files, by April 30."[270]

In the September 2 letter Romer also wrote, "The DNC never instructed its employees in April to complete a review of their files by July 31, 1997. Instead, they were told in writing, to review their files by May 9, 1997, and as documents were submitted, they were reviewed for responsiveness and produced. Although certain files were not collected until late July pursuant to a final deadline set in that month, they had been previously reviewed for more narrow document requests, and the additional review process for materials responsive to the Committee's subpoena could not have been concluded earlier."[271]

Response to Majority Report Chapter 32: "Soft money and Issue Advocacy: Systemic Problems of the Campaign Finance System"

In this chapter, the Majority offers its analysis of many of the issues covered in the course of the Committee's investigation. The Minority generally agrees with the Majority's general proposals for reform, such as the banning of soft money, the institution of a 60-day bright line test for so called "issue advocacy" advertisements aimed at influencing federal elections, improvements in the structure and processes of the Federal Election Commission, and codification of the Supreme Court holding in the Beck case. The Majority laudably notes that banning soft money without addressing the issue advocacy loophole would "encourage candidates to hide their donations through unreported coordinated issue advocacy with third parties."

Other proposals the Minority believes merit further exploration include public financing of campaigns and the provision of free air time in an attempt to reduce the overwhelming need for money experienced throughout the political system. Had the investigation not been conducted on a partisan basis, we could have joined together in a bipartisan report, recogning those reforms on which

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[270] Letter from Roy Romer, DNC general chairman, and Steve Grossman, DNC national chairman, to Chairman Thompson, 9/2/97. The subpoena was signed by Chairman Thompson on April 9, 1997 and received by the DNC on April 10, 1997.

[271] Letter from Roy Romer, DNC General Chairman and Steve Grossman, DNC National Chairman, to Chairman Thompson, 9/2/97.

we agreed and submitting a report in time to have had an impact on the 1988 debate regarding campaign finance reform legislation.